

Strengthening protections for life support customers

Draft decision

15 August 2019

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Summary

This draft decision sets out the proposed amendments to the Energy Retail Code, Electricity Distribution Code and Gas Distribution System Code to strengthen and clarify protections for customers who require life support equipment.

Overview of our draft decisions

We propose to maintain existing life support protections in the Energy Retail Code and Electricity Distribution Code. We propose to also maintain the obligation in the Gas Distribution System Code requiring gas distributors to notify customers of interruptions.

We have observed some deficiencies and gaps in our codes in relation to life support customer protections. We considered that the recent amendments to the National Energy Retail Rules in relation to life support customers would help to address these issues. Therefore, we have used the National Energy Retail Rules to guide our amendments and strengthen protections for Victorian life support customers.

Key features of the National Energy Retail Rules that we propose to align with are:

- requirements for better communications between energy businesses in relation to life support customers
- life support protections being afforded to customers from the time they notify their energy business that they are a life support customer until they are validly de-registered
- strengthened processes for the way life support customers are registered and de-registered
- strengthened processes for seeking medical confirmation from life support customers
- requirements to provide more relevant information to life support customers
- strengthened requirements to ensure life support registers are maintained and kept accurate.

Additional protections

We propose five key protections in addition to the National Energy Retail Rules to:

- require retailers to ask a customer whether they require life support equipment in certain circumstances
- clarify responsibilities between customers and energy businesses in situations where life support equipment is fuelled by both electricity and gas
- require the registration process owner to notify the other party within one business day that the customer requires life support equipment
- require the registration process owner and other party to update their registers within one business day of becoming aware that a customer is a life support customer

- permit customers to use a medical certificate from a registered medical practitioner that states the customer requires life support equipment to fulfil the medical confirmation requirement.

Energy businesses the new rules apply to

We propose that the new obligations will apply to licensed energy businesses and those who are exempt from holding an electricity licence, such as embedded electricity network sellers and suppliers. There are also some additional obligations for exempt persons that will ensure a customer's premises is registered as requiring life support equipment with all relevant parties.

When the new rules will apply

We propose the new obligations will take effect from 1 January 2020, with some transitional arrangements for legacy life support customers to come into effect from 1 December 2019.

Other draft decisions

We do not propose to introduce the concept of 'retailer interruptions' into the Victorian framework at this time as metering competition is not currently allowed.¹ Retailer interruptions generally relate to when a retailer organises for the exchange of an electricity meter at a customer's premises. Currently, in Victoria, only licensed distributors can interrupt a customer's electricity supply for the purposes of maintaining or exchanging a meter.

¹ Advanced Metering Infrastructure (Obligations to Install Meters) Order 2017 made on 12 October 2017 specifies that only a licensed distributor can be a metering coordinator.

1. Our draft decisions

1.1. Our draft decisions

Table 1 provides a high level summary of each of our draft decisions.

Table 1 Draft decisions

Draft decision	Summary of draft decision	Context
1	Commencing the new framework We propose that the new life support framework will come into effect on 1 January 2020 with some transitional obligations coming into effect on 1 December 2019.	Section 2.1
2	Transitioning legacy customers – distributors We propose that between 1 December 2019 and 31 December 2019, as part of the transition of legacy customers to the new framework, distributors and exempt suppliers will be required to provide relevant retailers and exempt sellers with information about customers already registered up to 31 December 2019. This decision does not apply to gas distributors.	Section 2.2
3	Transitioning legacy customers – retailers and exempt sellers We propose that between 1 January 2020 and 1 April 2020, retailers and exempt sellers will need to: <ul style="list-style-type: none">reconcile their databases of existing legacy life support customers against the distributors' information; andcommunicate with all existing legacy life support customers and start the medical confirmation process if necessaryshare information about life support customers with distributors and exempt suppliers as required.	Section 2.2
4	Gas distributors' obligations We propose that life support obligations will apply to Victorian gas distributors.	Section 4.2
5	Prohibition on disconnection We will maintain critical protections that prohibit the disconnection of a life support customer, which is aligned with the national framework.	Section 4.3.1

6	Notice of planned electricity distributor interruptions We will maintain the critical protection that ensure customers are given at least four business days' written notification of planned electricity distributor and exempt supplier interruptions.	Section 4.3.1
7	Electricity customer right to request longer notice period We will maintain the protection in the Electricity Distribution Code that allows life support customers to request a longer period of notice for a planned interruption.	Section 4.3.1
8	Notice of planned gas distributor interruptions We will maintain the existing obligation in the Gas Distribution System Code that requires gas distributors to give at least 10 days' notice.	Section 4.3.1
9	Explicit informed consent for planned interruption on a specified date We propose to include an additional clause in the Electricity Distribution Code and Gas Distribution System Code that requires distributors to provide customers with the option of providing explicit informed consent for a planned interruption to occur on a specified date.	Section 4.3.1
10	Gas customer right to request longer notice period We propose to include an obligation in the Gas Distribution System Code that allows life support customers to request a longer period of notice for a planned interruption.	Section 4.3.1
11	Registration and de-registration processes We propose to align with the national framework in relation to registering and de-registering life support customers.	Section 4.3.3
12	Medical confirmation We propose to align with the national framework in relation to seeking medical confirmation from life support customers.	Section 4.3.4
13	Life support registers We propose to align with the national framework in relation to maintaining the accuracy of life support customer registers.	Section 4.3.5
14	Provision of information to customers We propose to align with the national framework in relation to providing life support customers with relevant information.	Section 4.3.6
15	Retailer planned interruptions We propose that we will not adopt the obligation under the national framework for retailers and distributors to advise life support customers that there may be retailer planned interruptions. However, we question if this obligation is required for exempt persons and seek stakeholder views.	Section 4.4.1
16	Asking customers if they require life support equipment We propose to include an obligation that requires retailers	Section 5.1

	and exempt sellers to ask all customers when they first enter a contract or when they re-contract with the same retailer or exempt seller, whether any person residing at the premises requires life support equipment.	
17	<p>Energy businesses required to establish if life support equipment is fuelled by electricity and gas</p> <p>We propose to include obligations in our codes that require energy businesses, when contacted by a customer, to establish whether the customer’s life support equipment is fuelled by both electricity and gas. If so, we propose additional obligations to ensure all relevant energy businesses are notified.</p>	Section 5.2
18	<p>Timely notification of life support customer</p> <p>We propose to include an obligation that requires the registration process owner to notify the other party that the customer requires life support customer equipment within one business day after notification from the customer.</p>	Section 5.3
19	<p>Ensuring life support registers are updated in a timely manner</p> <p>We propose to include obligations that require retailers, distributors and exempt persons to update their life support registers within one business day of becoming aware the customer is a life support customer.</p>	Section 5.3
20	<p>Definition of life support equipment</p> <p>We propose to adopt the existing definition of life support equipment in the Energy Retail Code and apply it to all three energy codes.</p>	Section 5.4
21	<p>Medical certificates can be used as medical confirmation</p> <p>We propose to amend the required content of the medical confirmation form to include medical confirmation or a current medical certificate certifying that a person residing at the customer’s premises has a medical condition which requires continued supply of electricity or gas.</p>	Section 5.5
22	<p>New obligations will apply to exempt persons</p> <p>We propose to largely apply the obligations that will exist under the national framework for licensed electricity retailers and distributors to exempt persons.</p> <p>We also propose to include additional obligations to ensure that life support customers are registered with the:</p> <ul style="list-style-type: none"> • exempt seller • exempt supplier • licensed retailer at the gate meter who sells electricity to the exempt seller • licensed distributor whose network supplies the embedded network. 	Section 6.1

23	<p>‘On-market’ embedded network customers</p> <p>We do not propose to adopt the Australian Energy Market Commission’s final recommendation to make exempt suppliers the registration process owner for life support customers who live in embedded networks.</p> <p>We also do not propose to include additional provisions that would cover on-market embedded network customers, such as the ability for a licensed retailer or distributor to notify an exempt supplier that the customer no longer requires life support equipment.</p>	Section 6.2
24	<p>Ensuring life support customers are notified of planned distribution network outages in a timely manner</p> <p>We propose to require exempt sellers and suppliers (where applicable) to notify life support customers of a planned interruption in the distributor’s network within one business day after receiving notification from the distributor that an interruption will affect the gate meter.</p> <p>The exempt person will be required to provide the following details to the customer:</p> <ul style="list-style-type: none"> • the expected date, time and duration of the interruption • a 24-hour telephone number for the distributor. 	Section 6.3

1.2. Questions for stakeholders

We encourage stakeholders to provide feedback on our draft decisions or any matter raised in this paper. Additionally, throughout the paper, we ask stakeholders some questions and seek their views and input. Table 2 provides a summary of those questions.

Table 2 Stakeholder questions

Question Number	Summary of question	Context
1	<p>Life support customer numbers</p> <p>We are seeking energy businesses to provide us with information about the number of life support equipment customers who are currently registered with retailers, distributors and exempt persons.</p>	Section 2.2.2
2	<p>Feedback on implementing the national rules</p> <p>We are seeking stakeholder views on whether there have been challenges implementing the life support obligations in other jurisdictions that we may need to consider.</p>	Section 2.3
3 and 4	<p>Requirement for customer to provide medical confirmation</p> <p>We are seeking stakeholder feedback on whether or not retailers, distributors and exempt persons must obtain medical</p>	Section 4.3.4

	confirmation from life support customers, or whether the commission should give energy businesses the discretion to require medical confirmation from life support customers.	
5	Requirements on collecting and disclosing information We are seeking stakeholder feedback on whether our codes should include specific obligations to seek consent from customers and persons residing at the premises (as applicable) before collecting and disclosing information about life support equipment to other energy businesses.	Section 4.3.4
6	Retailer interruption provisions for exempt sellers We are seeking stakeholder feedback on whether or not we should include provisions to cover situations where exempt sellers would interrupt a customer's supply.	Section 4.4.1
7	Should distributors be allowed to de-register some life support customers? We are seeking stakeholder views on whether distributors should be able to de-register life support customers when they are not the registration process owner.	Section 5.1.1
8	Timely notification of life support customers We are seeking stakeholder views on the obligation to notify the other party within one business day.	Section 5.3
9	Updating life support registers in a timely manner We are seeking stakeholder views on the obligation on retailers, distributors and exempt persons to update their life support registers within one business day.	Section 5.3
10 to 12	Registration process owner in embedded networks 10. We are seeking stakeholder views on our approach of requiring the exempt seller to always be the registration process owner. 11. We are also interested to know from embedded network operators, the number of residential customers who have left their embedded network and are sold electricity by a licensed retailer? Does the commission need to account for these on-market embedded network customers in the design of the new life support obligations? 12. Is there merit in the commission considering the alternative approach outlined in section 6.2? If so, please provide reasons why these obligations would be needed. We also would like to know if an on-market customer, who is registered as requiring life support equipment, would be protected against disconnection in the event that the licensed retailer at the gate meter disconnected the exempt seller. Additionally, we would like to know if licensed distributors will notify the on-market customer about planned supply outages.	Section 6.2

1.3. Reform of energy codes

Table 3 shows which code applies to each energy business type. It also shows how our draft decisions will affect each code. Our draft decision proposes to amend the existing life support obligations in the Energy Retail Code and Electricity Distribution Code, and include new life support obligations in the Gas Distribution System Code.

Table 3 Draft decision code changes

Energy business	Energy Retail Code	Electricity Distribution Code	Gas Distribution System Code
Electricity and gas retailers	Amended obligations	N/A	N/A
Electricity distributors	N/A	Amended obligations	N/A
Gas distributors	N/A	N/A	New obligations
Exempt sellers	Amended obligations	N/A	N/A
Exempt suppliers	N/A	Amended obligations	N/A

1.4. Terminology we use in this draft decision

We use the terms ‘medical confirmation’, ‘life support customer’ and ‘customer who requires life support equipment’ throughout this document. For clarity:

- ‘medical confirmation’ means certification from a registered medical practitioner that a person residing or intending to reside at a customer’s supply address requires life support equipment (including certification in a document other than the medical confirmation form).
- ‘life support customer’ or ‘customer requiring life support equipment’ means customers who reside or intend to reside at a premises where life support equipment is required. This person may or may not be the customer themselves.

Exempt persons

We also use the terms ‘exempt person’, ‘exempt seller’, ‘exempt supplier’, and ‘embedded networks’. For clarity:

- ‘exempt person’ means a person who is exempt under the General Exemption Order from the requirement to hold a Victorian licence for the sale or supply of electricity²
- ‘exempt seller’ means a person who has a retail exemption to sell electricity without a licence (these are referenced as an ‘exempt person’ in the Energy Retail Code)
- ‘exempt supplier’ means a person who has a network exemption to supply electricity without a licence (these are referenced as an ‘exempt distributor’ in the Electricity Distribution Code)
- ‘embedded network’ means a person who owns, operates or occupies a site where the on-selling and supply of electricity occurs, and that person is exempt from the requirement to hold an electricity licence under the General Exemption Order.

A full list of terminology and definitions can be found in the glossary.

1.5. Engaging with stakeholders

It is important that we engage with and learn the views of stakeholders. Key stakeholders include licensed energy retailers and distributors, exempt sellers and suppliers, industry peak bodies, consumer groups, community groups, and the general public.

In summary, we have identified three main stages during the project where we will engage formally with stakeholders these are:

- notification of project³
- draft decision
- final decision.

Stakeholders are encouraged to provide written submissions to this draft decision. We are also open to informal consultation with stakeholders. Stakeholders can contact us at:

energylifesupport@esc.vic.gov.au.

Workshops

We will run two stakeholder workshops. The first will be before the submissions on the draft decision are due. The objective of this workshop is to give stakeholders an opportunity to ask questions about the draft decision to help them formulate their submissions. The second workshop will follow the final decision. The objective of this workshop is to discuss how the code changes work in practice, with stakeholder input informing any subsequent guidance material issued by us.

² General Exemption Order available at: <https://www.energy.vic.gov.au/legislation/general-exemption-order>

³ We sent an email to all key stakeholders on 4 July 2019 advising them of this project and its indicative timelines.

1.6. Electricity Distribution Code review

In parallel to this draft decision on life support obligations, we are also undertaking a wider review of the Electricity Distribution Code. In the issues paper, amongst a wide range of matters, we are seeking stakeholder feedback on the best ways to notify customers (including life support customers) of a potential widespread unplanned outage. Stakeholders can find more information on the review on our website: <https://www.esc.vic.gov.au/electricity-and-gas/inquiries-studies-and-reviews/electricity-distribution-code-review-2019>.

1.7. Send us your feedback by 13 September 2019

We are seeking feedback from interested stakeholders on our draft decision, including the content of the amended codes. Submissions to the commission are due **by 5.00 pm on 13 September 2019**.

We will consider stakeholder feedback and expect to publish our final decision in November 2019.

To make a submission on this paper please go to Engage Victoria's website:

<https://engage.vic.gov.au/>

Submissions can also be sent by mail to:

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

Submissions will be published on the commission's website, except for any information that is commercially sensitive or confidential. Submissions should clearly identify which information is sensitive or confidential.

1.8. Timeline for consultation and implementation

- 15 August 2019 – draft decision released.
- Late August 2019 – stakeholder workshop to discuss draft decision.
- 13 September 2019 – Submissions due on draft decision.
- November 2019 – Release final decision.
- Late November 2019 – Stakeholder workshop on how the new life support obligations will work in practice.
- 1 to 31 December 2019 – Certain transitional obligations apply and distributors and exempt suppliers send life support register information to retailers and exempt sellers.
- 1 January 2020 – New life support obligations commence.

- 1 January 2020 to 31 March 2020 – Retailers and exempt sellers reconcile registers. commence medical confirmation process and advise distributors and exempt suppliers of life support customers as required.

1.9. Attachments

We have also included five attachments to this paper:

- attachment 1 – draft tracked changes version 10 of the Electricity Distribution Code
- attachment 2 – draft tracked changes version 13 of the Gas Distribution System Code
- attachment 3 – schedule of amendments to the Energy Retail Code
- attachment 4 – schedule of amendments to the Energy Retail Code – transitional arrangements
- attachment 5 – detailed comparison of current national and Victorian life support frameworks.

2. How we will implement the life support framework

2.1. When will the new obligations take effect?

Draft decision 1: We propose that the life support obligations in the Energy Retail Code, Electricity Distribution Code and Gas Distribution System Code will apply to licensed Victorian energy retailers, electricity distributors, gas distributors and exempt persons from 1 January 2020. Certain transitional obligations will take effect from 1 December 2019.

The amended life support obligations require retailers, distributors and exempt persons to coordinate more closely. Therefore, we consider that it is appropriate that all energy businesses are subject to the new obligations from the same date.

Retailers operating in other jurisdictions have been required to comply with the new life support obligations in the National Energy Retail Rules since 1 February 2019. Accordingly, with the new life support obligations in other states being in place for six months, we believe that Victorian retailers operating in these states should have the systems and processes to support the Victorian obligations we are proposing. Currently, we are aware that only three licensed retailers operate solely in Victoria.⁴

We note that Australian Gas Networks also operates in South Australia and therefore will be aware of the national life support obligations.⁵ We also note that all Victorian electricity distributors made submissions to the Australian Energy Market Commission's draft decision or earlier consultation paper on strengthening protections for customers requiring life support equipment.⁶

Additionally, exempt persons have had life support obligations in both the Energy Retail Code and Electricity Distribution Code since 1 April 2018. Our draft decisions seek to expand and strengthen these existing obligations.

⁴ Elysian Energy, GloBird Energy and Onsite Energy Solutions only operate in Victoria.

⁵ Australian Gas Networks Limited and Multinet Gas Limited are owned by CK Infrastructure Holdings Limited.

⁶ Australian Energy Market Commission 2017, Final Rule Determination, National Energy Retail Amendment (Strengthening protections for customers requiring life support equipment) Rule, December. Australian Energy Market Commission 2017, Draft Rule Determination, National Energy Retail Amendment (Strengthening protections for customers requiring life support equipment) Rule, September.

2.2. Transitional arrangements for legacy customers

Draft decision 2: We propose that between 1 December 2019 and 31 December 2019, electricity distributors and exempt suppliers will be required to provide details of supply addresses that require life support equipment to relevant retailers and exempt sellers. This draft decision does not apply to gas distributors.

Draft decision 3: We propose that between 1 January 2020 and 31 March 2020, retailers and exempt sellers of electricity will need to:

- reconcile their databases of legacy life support customers against the distributors' and exempt suppliers' information; and
- communicate with all legacy life support customers the relevant information on new processes, including the need to have their supply address validly registered (where required) and begin the process related to medical confirmation and possible de-registration; and
- share information with distributors and exempt suppliers about life support customers as required.

In this section, we discuss our expectations in relation to transitioning legacy life support customers to the new life support obligations. Importantly, we expect that Victorian retailers, distributors and exempt persons will implement systems, processes and training to comply with the amended life support obligations that we propose will take full effect from 1 January 2020.

2.2.1. New protections will be applicable to existing life support customers

We consider life support customers who have been registered by their retailer, distributor, exempt seller or exempt supplier before 1 January 2020 should have the same strengthened protections as those customers who register after 1 January 2020. This avoids creating two tiers of protections for life support customers which would also create different obligations for retailers, distributors and exempt persons. Such a scenario would likely create confusion for all parties.

In practice, this means that those customers who have been registered before 1 January 2020 – regardless of whether they have provided medical confirmation – will receive protections under the amended codes from 1 January 2020 unless they are validly de-registered.

2.2.2. Facilitating accurate registration of all life support customers by 1 April 2020

It is also important that all life support customers, whether existing or new, are validly registered and that the databases of retailers and distributors are harmonised and accurate.

We expect that between 1 December 2019 and 31 December 2019, electricity distributors and exempt suppliers will share their life support customer databases with relevant retailers and exempt sellers. Retailers and exempt sellers must then reconcile their databases with the distributors and exempt suppliers' databases to establish which life support customers have provided medical confirmation and which have not.

As gas distributors are currently not required to have life support customer registers, these draft decisions do not apply to them. However, retailers and exempt sellers, as registration process owners for legacy customers, will need to establish whether the life support equipment is fuelled by electricity or gas or both, and fulfil their obligations accordingly.

We consider that this is a sensible approach as a customer's primary relationship is with their energy retailer or exempt seller. We also understand that customers have more regular contact with their retailer or exempt seller than their energy distributor or exempt supplier. Additionally, we understand that legacy customers would have generally contacted their retailer or exempt seller to register their supply address as requiring life support equipment. Accordingly, we believe it is most appropriate for retailers and exempt sellers to be the registration process owner for legacy customers who need life support equipment. We also consider the three month timeframe to be sufficient for retailers and exempt sellers to transition legacy customers after the new framework comes into effect.

Distributors and exempt suppliers are required to comply with relevant privacy laws and principles, and only provide information about a particular supply address to the retailer that is the financially responsible market participant (or the exempt seller) for the relevant supply address on the date the distributor or exempt supplier discloses the information to the retailer.

Process to register legacy life support customers

Between 1 January 2020 and 31 March 2020, retailers and exempt sellers acting as the registration process owner for legacy customers must provide customers:

- **Who have provided medical confirmation:**
 - advice that there may be distributor or exempt supplier planned and unplanned interruptions and that the distributor, exempt supplier or exempt seller has to provide notice of planned interruptions

- information to assist the customer prepare a plan of action in the event of an unplanned interruption
 - the phone numbers of the retailer, distributor, exempt seller or exempt supplier (as required)
 - advice that if the customer changes retailers the customer must notify the new retailer that they are a life support customer.
- **Who have not provided medical confirmation:**
 - the information in the point above
 - a medical confirmation form
 - advice that if the customer fails to provide medical confirmation the premises may be validly de-registered and the customer will cease to receive protections under the life support obligations of the Energy Retail Code and Electricity Distribution Code.

This process will help retailers, distributors, exempt sellers and exempt suppliers maintain the accuracy of their registers by confirming customers who still require life support equipment. This requirement will also mean they can validly de-register customers who do not provide medical confirmation.

Stakeholder question 1: Could each distributor, retailer and exempt person advise how many customer premises are currently registered as requiring life support equipment in Victoria?

2.3. Challenges in other jurisdictions that we need to be aware of

The new life support obligations in the National Energy Retail Rules that strengthened and clarified protections for customers came into full effect on 1 February 2019. We are interested in whether stakeholders have experienced any issues or challenges that we need to be aware of before we make a final decision on how we amend our codes to strengthen protections for life support customers.

Stakeholder question 2: Seeking stakeholder views on challenges in implementing the national life support rules in other jurisdictions

What, if any, are the challenges and issues that stakeholders have experienced in other jurisdictions that we need to be aware of, to inform our final decision?

2.4. Consequential amendments

Stakeholders should note a number of consequential amendments will be made to our codes in order to support the proposed amendments. Table 4 below shows the consequential amendments by code.

How we will implement the life support framework

Table 4 Consequential amendments

Energy Retail Code	Electricity Distribution Code
Model terms and conditions standard retail contracts (schedule 1)	Planned interruptions (clause 5.5)
Transitional obligations (schedule 3)	Date of effect (clause 1.2)
Commencement (clause 2)	To whom and how this code applies (clause 1.3)
Definitions (clause 3)	Transitional obligations Definitions (clause 19)

There are no consequential amendments to the Gas Distribution System Code.

3. Energy businesses' obligations for life support customers

3.1. Our decisions are driven by two main factors

New life support equipment obligations under the National Energy Customer Framework came into full effect on 1 February 2019 to make them stronger and clearer for customers and industry.⁷ We consider that if we apply the changes to the national framework, this could also strengthen the protections for Victorian life support equipment customers.

We are also of the view that customers in embedded networks should also be given the same protections as customers of licensed retailers and distributors. This is due to the critical nature of life support equipment and the potential serious impact on a customer.

For the purposes of this draft decision, we are referring to the National Energy Retail Rules, specifically to Part 7 – Life Support Equipment.

3.1.1. What is the National Energy Customer Framework?

The Department of the Environment and Energy states:

The National Energy Customer Framework is a national framework that regulates the connection, supply and sale of energy to grid-connected residential and small business energy customers. It ensures that customers should receive the same level of consumer protections, regardless of where they live. The National Energy Customer Framework is comprised of the National Energy Retail Law, the National Energy Retail Regulations and the National Energy Retail Rules.

The National Energy Customer Framework has been adopted in the Australian Capital Territory, Tasmania, South Australia, New South Wales and Queensland. Victoria has not adopted National Energy Customer Framework however has completed a process to harmonise the Victorian Energy Retail Code and the National Energy Customer Framework.⁸

⁷ Transitional arrangements applied between 1 February 2018 and 31 January 2019.

⁸ www.energy.gov.au/government-priorities/energy-markets/national-energy-customer-framework

3.2. Existing protections for Victorian life support customers

Currently, protections for Victorian customers who require life support equipment are contained in our:

- Energy Retail Code
- Electricity Distribution Code.

When taken together, the obligations under the Energy Retail Code and the Electricity Distribution Code aim to register customers who require life support equipment to prevent these customers from being disconnected under any circumstances (other than a supply outage) and provide information to assist them in the event of planned and unplanned interruptions.

The provisions under the Electricity Distribution Code specifically deal with preventing and managing the physical loss of electricity supply (except in emergencies) to registered life support customers. This is because the distributor manages the operation of the network, which includes planning supply interruptions to undertake maintenance and disconnecting customers for a range of reasons. The Energy Retail Code provides protections to prevent the retailer from arranging to de-energise a customer's premises for any reason except when requested by a customer.^{9,10}

Existing protections in the Energy Retail Code and Electricity Distribution Code for life support customers

Boxes 1 to 3 below outline the key provisions in both the Energy Retail Code and the Electricity Distribution Code that currently give protections to Victorian life support customers. These protections apply to customers of licensed energy retailers, electricity distributors and exempt sellers and suppliers.

Box 1 Existing life support obligations for electricity distributors and exempt suppliers

In relation to a validly registered life support equipment supply address¹¹ under the Electricity Distribution Code, the distributor or exempt supplier must:

- not disconnect supply to the customer's supply address while the supply address remains registered as a life support equipment supply address; and give the customer at least four

⁹ Under the Energy Retail Code, a retailer must not arrange for premises to be de-energised or disconnected except in accordance with Part 6, Division 2.

¹⁰ The retailer arranges for the distributor to de-energise the premises, which can occur remotely for electricity connections.

¹¹ The Electricity Distribution Code refers to the 'premises' as the 'supply address'. The two terms are interchangeable.

business days' written notice of any planned interruption to supply at the supply address (the four business days to be counted from the date of receipt of the notice),

- provide advice to assist the customer to prepare a plan of action in case an unplanned interruption should occur; and
- provide an emergency telephone contact number.

For the purposes of the Electricity Distribution Code, a validly registered life support equipment supply address is an address where the customer or the retailer has provided confirmation from a registered medical practitioner to the distributor or exempt supplier that a person residing at the customer's supply address requires life support equipment.

There are currently no specific life support obligations applicable to gas distributors in Victoria.

Box 2 Existing life support obligations for energy retailers

In relation to a validly registered life support customer under the Energy Retail Code, the retailer must:

- not arrange for the de-energisation of the premises while the person continues to reside at the premises and requires life support equipment
- give the customer an emergency telephone contact number for the distributor (the charge for which is no more than the cost of a local call)
- give the distributor information about the life support customer for the purpose of updating their registers.

For the purposes of the Energy Retail Code, a validly registered life support customer is where a customer provides a retailer with confirmation from a registered medical practitioner that a person residing at the customer's premises requires life support equipment.

Box 3 Existing life support obligations for exempt sellers

Exempt sellers currently have obligations to life support customers, which are set out in the Energy Retail Code.

In summary, exempt sellers¹² must:

- maintain a register of life support customers
- notify the licensed retailer responsible for the embedded network gate meter of the customer requiring life support equipment
- notify the exempt supplier (if different to the exempt seller) of the customer who requires life support equipment
- not disconnect or de-energise the electricity supply to the customer's premises while the person continues to reside at the premises and requires life support equipment
- provide the customer with an emergency telephone number for the licensed distributor.

¹² These obligations only apply to exempt sellers who sell electricity to customers in the VD2, VR2, VR3 and VR4 exemption categories. These categories include apartment buildings, caravan parks, manufactured home estates, land lease estates, retirement villages, and rooming houses.

4. Aligning with the National Energy Retail Rules

We observe that the concerns we face in the Victorian regulatory environment are similar to those experienced by the Australian Energy Regulator. Therefore, we have used the National Energy Retail Rules to guide our code amendments.

4.1. Background

The National Energy Retail Rules relating to life support customers were amended in December 2017 to address concerns raised by the Australian Energy Regulator. The Australian Energy Market Commission's final determination noted that the Australian Energy Regulator's concerns were:

- customers requiring life support equipment were not being validly registered and they may have been unaware of the need to provide medical confirmation
- there has been difficulty enforcing certain life support rules if the customer does not provide medical confirmation to either the retailer or distributor; and
- life support registers had grown and become increasingly inaccurate.¹³

We consider that some deficiencies and gaps in our codes – and the industry practice of not always requiring customers to supply medical confirmation – have created similar issues in the Victorian regulatory environment. Accordingly, we propose to largely align our code amendments with the National Energy Retail Rules to strengthen and clarify protections for Victorian life support customers.

In appendix B, we have included a summary table that shows the key differences between the Victorian codes and the National Energy Retail Rules. We have also attached a detailed comparison of the Victorian codes and the National Energy Retail Rules.

4.2. Ensuring life support obligations apply to gas distributors

Draft decision 4: Life support equipment obligations will apply to Victorian gas distributors. These obligations will be included in the Gas Distribution System Code.

¹³ Australian Energy Market Commission, Strengthening protections for customers requiring life support equipment – Final Determination (page 9), 2017

Under the Energy Retail Code, Electricity Distribution Code and the National Energy Retail Rules, life support equipment could be fuelled by gas.¹⁴ However, there are no life support obligations placed on Victorian gas distributors in our Gas Distribution System Code. Given the critical nature of life support equipment, we consider that the same obligations should be placed on gas distributors as those placed on electricity distributors. As such, we propose to also amend the Gas Distribution System Code to align with the National Energy Retail Rules.

4.3. Clarifying and strengthening protections for Victorian customers

In this section, we discuss how aligning the Energy Retail Code, Electricity Distribution Code and Gas Distribution System Code with the National Energy Retail Rules will:

1. maintain and expand critical existing ongoing protections
2. improve communications between energy businesses
3. strengthen the registration and de-registration processes
4. make clearer processes to seek medical confirmation from life support customers
5. better ensure registers of life support customers are maintained and accurate
6. ensure customers are given more relevant information
7. improve consistency across our codes.

In this section, we also ask stakeholders to consider whether requiring customers to provide confirmation from a registered medical practitioner is necessary in all circumstances to receive life support protections.

4.3.1. Maintaining and expanding critical ongoing protections

Prohibition on de-energisation for life support equipment customers

Draft decision 5: We propose to maintain the prohibition on de-energising life support customers. Aligning with the National Energy Retail Rules will maintain the critical protection that prohibits retailers and distributors de-energising a customer who requires life support equipment.

Our codes (excluding the Gas Distribution System Code) and the National Energy Retail Rules all place an ongoing obligation on energy businesses **to not** de-energise the premises where a customer requiring life support equipment resides (except in the event of a supply outage or when

¹⁴ Energy Retail Code: Part 1 Definitions “life support equipment”

Electricity Distribution Code: Definitions “life support equipment”

Australian Energy Market Commission – Final Determination: A.1 Submissions on consultation paper

requested by a customer).¹⁵ Our amended codes, including the Gas Distribution System Code, will contain this critical customer protection.

Distributor planned interruptions

Draft decision 6: We propose to align with the National Energy Retail Rule to maintain the critical protection that requires electricity distributors and exempt electricity suppliers to give at least four business days' written notice of planned interruptions to supply at the premises (the four business days to be counted from, but not including the date of receipt of the notice).

Draft decision 7: We propose to maintain the existing obligation in the Electricity Distribution Code that allows a life support customer to request a longer period of notice for a planned interruption.

Draft decision 8: We propose to maintain the existing obligations in the Gas Distribution System Code that require gas distributors to give at least 10 business days' written notification of a planned interruption for maintenance and up to 10 business days' notice in the event of a disconnection for health and safety reasons.

Draft decision 9: We propose to include an additional clause in the Electricity Distribution Code and the Gas Distribution System Code that requires distributors to provide life support customers with the option of providing explicit informed consent for a planned interruption to occur on an earlier specified date. Distributors will be required to keep records of this for at least two years.

Draft decision 10: We propose to include an obligation in the Gas Distribution System Code that allows life support customers to request a longer period of notice for a planned interruption.

The Electricity Distribution Code requires distributors and exempt suppliers to give at least four business days' written notice of any planned interruption to supply at the supply address. An equivalent ongoing obligation is placed on distributors under the National Energy Retail Rules. The Electricity Distribution Code will retain this critical customer protection.

We also propose to maintain the existing clause 5.6.1(c) in the Electricity Distribution Code that allows the life support customer to request a longer period of notice for a planned interruption.

¹⁵ National Energy Retail Rules clause 124B(1)(c) and clause 124B(2)(a)(iii)

We propose to maintain the existing obligations in the Gas Distribution System Code. This is because these protections are stronger than those in the Electricity Distribution Code and the National Energy Retail Rules.

The existing obligations require gas distributors to:

- give affected parties at least 10 business days' written notice of any planned interruption for maintenance¹⁶
- to not disconnect a customer's supply address for health and safety reasons (except in the case of emergency) unless the distributor has allowed the customer five business days to rectify the reason and if necessary, a further five business days of its intention to disconnect the customer.¹⁷

Explicit informed consent

The National Energy Retail Rules – Part 4 (Relationship between distributors and customers) also deals with planned distributor interruptions. Clause 90(1)(c) of this Part specifically relates to life support customers. The clause states:

A distributor may arrange a distributor planned interruption by:

where a person residing at the premises requires life support equipment, obtaining the affected customer's explicit consent to the interruption occurring on a specified date, in which case sub-rule (1A) applies.¹⁸

We consider that this protection could be useful for life support customers who would like to bring forward a planned electricity interruption that affected them, to a time that was less than four business days from the receipt of the written notification. Equally, it could be useful where life support customers would like to bring forward a planned gas interruption that affected them – to a time that was less than the required 10 business days' written notification.

We also propose to strengthen this obligation in the Electricity Distribution Code and the Gas Distribution System Code further by requiring distributors to obtain explicit informed consent rather than explicit consent.

¹⁶ Gas Distribution System Code clause 9.6(c).

¹⁷ Gas Distribution System Code clause 9.2(c).

¹⁸ Sub-rule 1A is concerned with keeping records of consent.

Longer notice period for gas life support customers

We propose to include a clause in the Gas Distribution System Code that mirrors the clause in the Electricity Distribution Code that allows a life support customer to request longer notice period (longer than 10 business days) of a planned interruption.

4.3.2. Improving communications between retailers, distributors and customers

We consider that effective communication between energy businesses is essential in facilitating all parties to fulfil their respective life support obligations. Only the Energy Retail Code requires retailers and exempt sellers to notify distributors and exempt suppliers of registration and de-registration.¹⁹ The Electricity Distribution Code does not require distributors or exempt suppliers to communicate with retailers.

Aligning with the National Energy Retail Rules will more clearly specify requirements and processes to ensure effective communication and coordination between energy businesses.²⁰ Information that must be communicated between energy businesses includes the initial registration details, changes to the customer's requirements or contact details, and details of de-registration.

This ensures that energy businesses:

- can maintain up-to-date and accurate registrations; and
- are able to better fulfil their ongoing obligations (such as **not** de-energising life support customers and notifying these customers of planned interruptions).

This is regardless of whether they have direct contact with the customer or not.

The National Energy Retail Rules also require better communication between the registration process owner and life support customers. This includes providing:

- more detailed information upon registration
- confirmation reminder notices
- written notice in advance of planned interruptions
- written notice in advance of de-registration.

Currently, our codes require energy businesses to provide minimal information upon registration (see 4.3.6.) and only the Electricity Distribution Code requires distributors and exempt suppliers to provide written notice in advance of planned interruptions. Neither code requires energy

¹⁹ Energy Retail Code clause 124(1)(b), clause 124(1)(c) and clause 124(2).

²⁰ National Energy Retail Rules clause 124(1)(c), clause 124(4)(c), clause 124B(1)(a), clause 124B(2)(a)(i) and clause 125(2).

businesses to communicate with customers in other circumstances. Better communication between energy businesses and life support customers underpins much of the discussion below.

4.3.3. Strengthening the way life support customers are registered and de-registered

Draft decision 11: We propose to align with the National Energy Retail Rules in relation to registering and de-registering life support customers. We consider that the National Energy Retail Rules provides more robust processes for validly registering and de-registering life support customers. The National Energy Retail Rules also provide customers stronger and clearer life support protections. This is because customers are essentially afforded life support protections from making first contact with their energy business and informing them that they require life support equipment unless they are validly de-registered.

In this section, we describe some issues we face in relation to registering and de-registering life support customers. Validly registering and de-registering life support customers is crucial in ensuring customers receive life support protections from energy businesses over the period they require protections.

Over time, our investigations and audits have found in many instances customers are ‘flagged’ in retailers’ and distributors’ systems as life support customers and yet neither the retailer nor distributor has received medical confirmation. This is despite the Energy Retail Code and Electricity Distribution Code requiring customers to supply medical confirmation so they can be validly registered.

Specifically, since 1 July 2016, electricity distributors have reported 17 potential breaches of clause 5.6.1(c) of the Electricity Distribution Code to the commission.²¹

Each distributor considered that the customer was validly registered as a life support equipment customer and that they had breached clause 5.6.1(c) of the Electricity Distribution Code. However, upon further investigation we were not able to establish that a breach of clause 5.6.1(c) of the Electricity Distribution Code had occurred in any of these incidents. This is because the distributor had not been provided with medical confirmation by the customer, which is a prerequisite to establish a breach of clause 5.6.1(c).

²¹ Clause 5.6.1(c) of the Electricity Distribution Code requires a distributor to give a validly registered life support at least four business days’ notice days written notice of any planned interruption to supply at the supply address (the four business days to be counted from the date of receipt of the notice), unless a longer period of notice is requested by the customer and provided that the longer period of notice: is reasonably necessary; and can be accommodated by the distributor.

Under the Electricity Distribution Code, the customer is given life support protections only after the distributor receives medical confirmation from either the customer or the customer's retailer. Yet there are no timeframes in the Energy Retail Code by which the retailer or exempt seller must forward medical confirmation to the distributor or exempt supplier. We also note there is no requirement in the Electricity Distribution Code for a distributor or exempt supplier to notify a retailer or exempt seller if it receives medical confirmation from a customer first.

De-registration

There is a lack of clarity in, and consistency between, the Energy Retail Code and Electricity Distribution Code in relation to de-registering a life support customer. The Energy Retail Code requires retailers and exempt sellers to register life support customers but it is not clear about whether a retailer or exempt seller should de-register a life support customer after it receives advice that life support equipment is no longer required. It only requires the retailer or exempt seller to inform the distributor or exempt supplier of the event.²²

On the other hand, the Electricity Distribution Code places responsibility on the customer to advise the distributor or exempt supplier – or the customer's retailer or exempt seller – that they no longer require life support equipment. If this occurs, the distributor or exempt supplier may de-register a supply address.²³ However, the Electricity Distribution Code is silent on how the distributor and exempt supplier would become aware that the customer has advised their retailer or exempt seller that they no longer require life support equipment.

Additionally, the Electricity Distribution Code does not require the distributor or exempt supplier to notify the customer's retailer or exempt seller that the customer no longer requires life support equipment.

Aligning with the National Energy Retail Rules

We consider that aligning with the National Energy Retail Rules will provide more robust processes for validly registering and de-registering life support customers.

The National Energy Retail Rules introduce the concept of the registration process owner. In the Victorian context, the registration process owner refers to the party (retailer, distributor, exempt seller or exempt supplier, where applicable) first contacted by the customer to advise

²² Energy Retail Code clause 124(2).

²³ Electricity Distribution Code clause 5.6.2.

they require life support equipment. The registration process owner has specific obligations in relation to registration, confirmation, de-registration, information sharing and record keeping.²⁴ A registration process owner is not currently identified in the Energy Retail Code or the Electricity Distribution Code.

Under the National Energy Retail Rules,²⁵ the customer begins to receive life support protections from the time they first notify the registration process owner unless they are validly de-registered. During this time, the registration process owner must follow a prescribed process to notify the other party, and within five business days it must begin to seek to obtain medical confirmation from the life support customer.²⁶

After notification from the registration process owner, the other party must also validly register that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required. However, we note the National Energy Retail Rules do not specify a timeframe for the registration process owner to notify the other party.²⁷ We address this matter in section 5.3.

For the purposes of the National Energy Retail Rules, 'the other party' refers to the energy business that is not the registration process owner.

These are stronger protections than those under the Energy Retail Code and Electricity Distribution Code. The Victorian codes currently rely on the customer providing medical confirmation before life support protections take effect.

The National Energy Retail Rules specify when a customer may be de-registered. De-registration is conducted by the registration process owner and may occur in the following circumstances:

- the customer fails to provide medical confirmation by the date specified;²⁸
- there is a change in the customer's circumstances and the premises no longer requires life support equipment;²⁹ or

²⁴ Australian Energy Regulator, Life support registration guide, 2019, available at: <https://www.aer.gov.au/system/files/AER%20Life%20support%20registration%20guide%202019.pdf>.

²⁵ National Energy Retail Rules clause 124B(1)(c) and clause 124B(2)(a)(iii).

²⁶ The registration process owner is also responsible for notifying the other party within 5 days that the premises requires life support equipment and the date from which it is required.

²⁷ National Energy Retail Rules clause 124(1)(c) and clause 124(4)(c).

²⁸ National Energy Retail Rules clause 125(4).

²⁹ National Energy Retail Rules clause 125(9).

- the customer changes retailers (this only applies if the distributor is the registration process owner).³⁰

Additionally, the National Energy Retail Rules require that the customer can only be de-registered if the registration process owner provides written notice to the customer with key information regarding de-registration.³¹ In the case of failure to provide medical confirmation, this written notice must be provided in the form of a de-registration notice.³² This de-registration process ensures that customers are aware that they will be de-registered, and that they have adequate time to inform energy businesses if deregistration is **not** appropriate.

4.3.4. Clearer processes to seek medical confirmation from life support customers

Draft decision 12: We propose to align with the National Energy Retail Rules in relation to how energy businesses seek medical confirmation. We consider that the National Energy Retail Rules provides clearer processes to seek medical confirmation from life support customers. This is because they require the registration process owner to forward a template confirmation to the customer and (if necessary) reminder notices within prescribed timeframes.

Currently, under our codes, life support equipment customers are validly registered when they provide medical confirmation to their energy business (or their retailer or exempt seller provides medical confirmation to the distributor or exempt supplier on their behalf).³³ Yet, there are no requirements for energy businesses to provide customers with a template medical confirmation form or processes to remind customers to provide confirmation from a medical practitioner. Further, there are no set timeframes by which retailers or exempt sellers should provide distributors or exempt suppliers with confirmation. Additionally, there is no requirement for distributors or exempt suppliers to provide confirmation to retailers or exempt sellers.

These deficiencies may compromise a customer's ability to access life support protections and limit the commission's ability to enforce life support obligations.

³⁰ National Energy Retail Rules clause 125(14).

³¹ National Energy Retail Rules clause 125(9)(a), clause 125(10)(a) and clause 125(14)(a).

³² National Energy Retail Rules clause 125(6).

³³ Energy Retail Code clause 124(1) and Electricity Distribution Code clause 5.6.1.

Aligning with the National Energy Retail Rules

We consider aligning with the National Energy Retail Rules deals with these issues. They require the registration process owner to forward to the customer a medical confirmation form³⁴ and if necessary, confirmation reminder notices.³⁵

The National Energy Retail Rules also specify the content of the medical confirmation form³⁶ and confirmation reminder notices.³⁷ We consider that this is reasonable in that it ensures a consistent approach to collecting important information about customers who have critical needs.

An important distinction between our codes and the National Energy Retail Rules is, under our codes, energy businesses require customers to supply medical confirmation so they receive life support protections. Whereas under the National Energy Retail Rules, the customer is required to supply medical confirmation to the registration process owner so as **not** to be de-registered.

On balance, we consider the National Energy Retail Rules provide stronger life support protections for customers. This is because they provide a prescriptive process for energy businesses to obtain medical confirmation from life support customers. In addition, customers are given a minimum of 50 business days to provide medical confirmation.

Consulting on whether seeking confirmation from a registered medical practitioner is necessary

We are also considering an alternate approach where there is no requirement for a customer to provide either the retailer or distributor with confirmation from a registered medical practitioner that a person residing or intending to reside at the premises requires life support equipment.

There are two options within this approach:

1. customers are not required to provide medical confirmation and the registration process owner must register them after being notified and fulfil its other obligations; or
2. the registration process owner has discretion as to whether or not it will require the customer to provide medical confirmation and must still fulfil its other obligations.

In either scenario, all other obligations such as notifying the other party and keeping records would still apply.

³⁴ National Energy Retail Rules clause 124(1)(b)(i) and clause 124(4)(b)(i).

³⁵ National Energy Retail Rules clause 124A(1)(b).

³⁶ National Energy Retail Rules clause 124(6).

³⁷ National Energy Retail Rules clause 124A(2).

We consider that either of the above options could be a valid alternative approach. This is because our previous investigations and audits have found that in many instances customers have not provided medical confirmation to either the retailer or distributor. Yet these customers were still ‘flagged’ in systems as requiring life support equipment by the retailer and distributor.

Furthermore, we consider that taking customers at their word that they require life support equipment may be consistent with the fair and reasonable conduct retailers are expected to show customers experiencing payment difficulties or family violence.^{38,39}

We seek stakeholders’ views on the merits and risks of this approach.

Stakeholder questions 3 and 4: Seeking stakeholder views on whether medical confirmation is necessary

3. What are the benefits or risks associated with removing the obligation on customers to provide confirmation from a registered medical practitioner that a person residing or intending to reside at premises requires life support equipment (as described in the two alternative approaches above)?

4. If Victoria does not adopt the medical confirmation process, are there any circumstances in which a retailer, distributor or exempt person should be able to require a customer to provide medical confirmation?

Consulting on whether consent is needed to share information

Stakeholder question 5: Seeking stakeholder views on privacy requirements in our codes

Specifically, whether our codes should include the following:

- where the person who requires life support equipment is not the customer of the retailer or exempt seller, that medical confirmation be provided with the consent of the individual who requires the life support equipment (or a person authorised to consent on their behalf, such as a power of attorney) unless this is unreasonable or impracticable; and

³⁸ Essential Services Commission 2018, Providing family violence support, Exploring ways energy retailers can provide family violence assistance that is safe and effective, October.

³⁹ Essential Services Commission 2017, Payment difficulty framework: Final decision, 10 October.

- a requirement that a person who requires life support equipment consents to the medical confirmation being disclosed to other relevant energy businesses in accordance with the codes.

We consider that where energy businesses are required to collect and disclose information about life support equipment that they do so in a way that is consistent with the relevant legislation and the right to privacy under the Charter of Human Rights and Responsibilities Act 2006. We consider that the Energy Retail Code, Electricity Distribution Code and Gas Distribution System Code could be amended to include specific obligations that require:

- where the person who requires life support equipment is not the customer, that medical confirmation be provided with the consent of the individual who requires the life support equipment (or a person authorised to consent on their behalf, such as a power of attorney) unless this is unreasonable or impracticable; and
- for the person who requires life support equipment to consent to the medical confirmation being disclosed to other relevant energy businesses in accordance with the codes.

These practices may already take place. However, we are interested to establish the extent to which they do.

4.3.5. Ensuring registers of life support customers are maintained and accurate

Draft decision 13: We propose to align with the National Energy Retail Rules in relation to the way life support registers are maintained. We consider that the National Energy Retail Rules provide more robust processes to maintain the accuracy of life support customer details. This is because they place equal responsibility on energy businesses to maintain accurate life support registers.

There are some deficiencies, gaps and inconsistencies in, and between, our codes that need to be addressed to help ensure life support registers are maintained and are accurate.

Some of the issues we currently face in the Energy Retail Code and Electricity Distribution Code are:

- only electricity distributors and exempt suppliers are required to ensure the accuracy of their life support registers
- there are no requirements for retailers or exempt sellers to de-register customers.

Aligning with the National Energy Retail Rules

We consider aligning with the National Energy Retail Rules will place more robust requirements on Victorian energy businesses to maintain accurate life support registers. In addition to providing

more robust processes for registering and de-registering life support customers, they recognise that energy businesses should have responsibility for ensuring life support registers are accurately maintained. They require both the registration processes owner and the other party to:

- establish policies, systems and procedures for registering and de-registering premises to facilitate compliance with life support equipment rules⁴⁰
- ensure that registration and de-registration details are kept up-to-date.^{41,42}

Further, the National Energy Retail Rules require that both the retailer and distributor keep each other updated when they are advised of a change in a life support customer's circumstances and details for example a change of phone number.

4.3.6. More information provided to customers of their rights, obligations and processes

Draft decision 14: We propose to align with the National Energy Retail Rules in relation to what information is provided to life support customers.

Our codes have minimal requirements for what information energy businesses must provide customers. The Energy Retail Code requires retailers and exempt sellers to provide life support customers with an emergency contact number for the distributor only. The Electricity Distribution Code requires distributors and exempt suppliers to provide customers with advice on how to prepare a plan in the event of unplanned interruption and an emergency contact number.

Aligning with the National Energy Retail Rules

Conversely, the National Energy Retail Rules require retailers and distributors to provide more information to customers to inform them of rights, obligations and processes.⁴³ This includes:

- information explaining if the customer fails to provide medical confirmation, the premises may be de-registered, upon which they will cease to receive life support protections
- advice that there may be retailer planned interruptions for which the customer will be notified⁴⁴

⁴⁰ National Energy Retail Rules clause 126(a).

⁴¹ National Energy Retail Rules clause 126(b).

⁴² Details required to be kept include:

1. the date when the customer requires supply of energy for life support equipment
2. when medical confirmation was received
3. the date and reason for deregistration
4. a record of communications with the customer.

⁴³ National Energy Retail Rules clause 124(1)(b) and clause 124(4)(b).

- advice that there may be distributor planned interruptions for which the customer will be notified
- advice that there may be unplanned interruptions
- information to assist the customer to prepare a plan of action in case of an unplanned interruption
- two emergency phone numbers, one for the distributor and one for the retailer (the charge for calls to these numbers must be no more than the cost of a local call)
- advice that if the customer decides to change retailer at the supply address they need to advise their new retailer of life support requirements.

Further, the National Energy Retail Rules require the registration process owner to provide all of this information in writing, no more than five business days after the registration process owner receives notification from the customer that they are a life support customer.⁴⁵

We consider that the National Energy Retail Rules requirements of what information must be provided, as well as the requirement to do so in writing within a specific timeframe, ensures that all customers will receive adequate information, notification of interruptions, and support from their energy business.

4.3.7. Improving consistency across Victorian codes

The National Energy Retail Rules apply to retailers and distributors and as such, consistent language and terminology apply to both. This increases the clarity of the National Energy Retail Rules for customers. Currently, our codes use different language styles and use different terminology which could make understanding the intent of our codes more difficult. Therefore, we consider this process also gives us an opportunity to standardise the language and terminology that apply to energy businesses.

In cases where consistency of terminology across the codes would create inconsistent terminology within the code, we have prioritised the terminology within that particular code. For example, the Energy Retail Code and National Energy Retail Rules refer to the 'premises' of the customer, whilst the Electricity Distribution Code refers to the 'supply address'. The term 'supply address' is used throughout the entirety of the Electricity Distribution Code; we have chosen to keep that defined term in our amended codes.

⁴⁴ We will not require retailers or distributors to explain that there may be retailer planned interruptions. Please refer to section 2.4.1.

⁴⁵ If the distributor is the registration process owner, the retailer is also obligated to advise that there may be retailer planned interruptions and to provide two emergency telephone numbers if the distributor has not already done so.

4.4. National rules we will not be including in our amended Codes

4.4.1. Retailer interruptions to supply

Draft decision 15: We propose not to adopt the National Energy Retail Rules in relation to notifying of a retailer planned interruption. We will not include an obligation that requires retailers and distributors to advise life support customers there may be retailer planned interruptions. However, we question if this should be required for exempt sellers. Refer to stakeholder question 6 below.

The National Energy Retail Rules allow for retailers to interrupt a customer's electricity supply.⁴⁶ This is mainly to facilitate the exchange of a meter as part of a retailer's market retail contract. The exchange usually involves the replacement of a basic meter with an interval meter, also known as a smart meter.

Victoria has already rolled out smart meters to all residential premises and does not currently have meter contestability.⁴⁷ All metering responsibilities, including planned outages, are the responsibility of the distributor. Therefore, the concept of retailer interruptions is not relevant in the Victorian regulatory environment for licensed electricity retailers and distributors at this stage. If metering competition were to be introduced in the future, the commission will re-visit retailer supply interruptions.

We question if retailer supply interruptions are relevant to embedded networks. We understand that supply interruptions may occur due to the embedded network operator (or embedded network manager) completing maintenance, repairs or meter replacement to facilitate access to the contestable retail market. However, we seek stakeholder views on these assumptions.

Stakeholder question 6: Seeking views on whether or not retailer interruption obligations are needed for embedded networks.

Is there a need to include obligations regarding retailer supply interruptions that should apply to exempt sellers?

⁴⁶ National Energy Retail Rules clause 59C.

⁴⁷ Advanced Metering Infrastructure (Obligations to Install Meters) Order 2017 made on 12 October 2017 specifies that only a licensed distributor can be a metering coordinator.

5. Additional protections for Victorian life support customers

We have also considered areas where protections for Victorian customers could be strengthened. In this chapter, we propose five additional protections for Victorian customers and we seek feedback on these.

For reasons given in chapter four, we propose to largely base our code amendments on the National Energy Retail Rules. However, we consider that five key additional protections should be included in our codes for Victorian customers. The key additional protections are:

- requiring retailers to ask a customer whether they require life support equipment in certain circumstances
- clarifying responsibilities between customers, retailers and distributors in situations where life support equipment is fuelled by both electricity and gas
- requiring the registration process owner to notify the other party within one business day that the customer is a life support customer
- requiring the registration process owner and other party to update their registers within one business day of becoming aware that a customer is a life support customer
- permitting customers to use a medical certificate from a registered medical practitioner that states the customer requires life support equipment to fulfil the medical confirmation requirement.

The following five sections outline our draft decisions regarding the additional protections for customers and provide our reasoning. We also seek stakeholder views on our proposals.

5.1. Asking some customers about whether they require life support equipment

Draft decision 16: We propose to include an additional obligation that requires retailers and exempt sellers to ask all customers whether anyone at the customer's premises requires life support equipment when they first enter a contact or agreement, or when they recontract.

Under National Energy Retail Rules, registration of a customer requiring life support equipment occurs when the customer advises either the retailer or distributor that a person residing or intending to reside at the customer's premises requires life support equipment.⁴⁸

We consider that the responsibility of establishing life support status should not solely rely on the customer taking the initiative to inform their energy business of their requirements. Requiring retailers and exempt sellers to proactively ask whether a customer requires life support equipment creates an extra safe guard to ensure customers who need life support protections receive them.

We consider that retailers and exempt sellers should be required to ask customers about life support equipment at the time of renewing or first entering into a contract.

We only propose to impose this new obligation on retailers and exempt sellers. This is because customers interact with retailers and exempt sellers to discuss their contractual arrangements and we understand that this is already common practice.

5.1.1. Consulting on whether distributors should be able to de-register some life support customers

Consistent with the National Energy Retail Rules, we have included a clause in the Electricity Distribution Code and the Gas Distribution System Code that allows distributors to de-register life customers.⁴⁹ The obligation applies in the situation when the distributor is not the registration process owner yet becomes aware that a customer has changed retailers without notifying the new retailer that they are a life support customer.

The Australian Energy Market Commission included the obligation in response to concerns raised by stakeholders, that in this situation:⁵⁰

- neither the distributor nor the new retailer could be registration process owner and neither could de-register the premises because a medical confirmation was not provided
- the distributor may not be able to confirm whether life support equipment is still required at the premises.⁵¹

⁴⁸ National Energy Retail Rules clause 124(1)(a) and clause 124(4)(a).

⁴⁹ De-registration occurs after notice is given to the customer. National Energy Retail Rules clause 125 (14).

⁵⁰ Australian Energy Market Commission 2017, Final Rule Determination National Energy Retail Amendment (Strengthening protections for customers requiring life support equipment) Rule 2017, December.

⁵¹ National Energy Retail Rules clause 125 (13) – A retailer or distributor may, at any time request a customer whose premises have been validly registered to confirm whether the person for whom life support equipment is required still resides at the premises or still requires life support equipment. Equivalent provisions have been included in the Electricity Distribution Code, Gas Distribution System Code and Energy Retail Code.

Our proposal to require retailers to ask new customers about life support equipment at the time of renewing or first entering into an electricity or gas contract, could negate the need for distributors to need to de-register customers when they become aware that the customer has changed retailers and in turn have not notified the new retailer that they are a life support customer.

Stakeholder question 7: Seeking stakeholder views on whether distributors should be able to de-register some life support customers

We are interested in whether requiring retailers to ask customers about whether they are a life support customer is sufficient to disallow distributors being able to de-register life support customers. Particularly in the situation where the distributor is not the registration process owner, but becomes aware that the customer has changed retailers without notifying the new retailer they are a life support customer.

5.2. Combined electricity and gas life support equipment

Draft decision 17: We propose to include obligations in our codes that require retailers, exempt sellers and distributors, when contacted by a customer, to establish whether the customer's life support equipment is fuelled by electricity and gas. If so, we propose additional obligations to ensure all relevant energy businesses are notified.

The Energy Retail Code, Electricity Distribution Code and the National Energy Retail Rules contemplate that life support equipment could be fuelled by gas.⁵² Further, the Australian Energy Regulator's guideline on registering life support customers gives examples of life support equipment including hot water and medically required heating or air conditioning.⁵³ In these cases, it is likely that if the equipment is fuelled by gas it will also need electricity to operate.⁵⁴

Our view is the National Energy Retail Rules do not clearly deal with a situation where a customer needs both electricity and gas to fuel their life support equipment. To help protect customers in this situation, we propose to add safeguards that ensure that the retailer/s for both electricity and gas – and both the electricity and gas distributors – are aware that the customer requires life support equipment.

⁵² Energy Retail Code 3. Definitions 'life support equipment' (g), Electricity Distribution Code 19. Definitions 'life support equipment' (g).

⁵³ Australian Energy Regulator 2019, Life support registration guide.

⁵⁴ For example, many gas hot water services require electricity to ignite the gas. Additionally, gas heating system often requires electricity to run a fan and the controller.

We also propose to require exempt sellers to advise the customer that they need to contact their licensed gas retailer in order to have their life support equipment properly registered with all relevant parties.

We propose to include obligations in the Energy Retail Code, Electricity Distribution Code and Gas Distribution System Code that require retailers, exempt sellers and distributors to establish (on contact from the customer) whether the customer's life support equipment requires electricity and gas to operate. If so, we propose additional obligations to ensure all relevant energy businesses are notified.

We propose to amend our codes to specifically address five 'dual fuel' customer scenarios, outlined below.

Scenario 1 - different retailers for gas and electricity

In this scenario, the customer contacts their retailer and the retailer establishes the equipment is fuelled by electricity and gas. The retailer is then required to establish whether the other fuel is supplied by another retailer. If so, the retailer advises the customer to contact the other fuel retailer. In this scenario, the other retailer becomes the registered process owner for the fuel they are responsible for. The retailer is required to keep records of the information provided to the customer.

Scenario 2 - same retailer for both fuels

In this scenario, the customer contacts their retailer and the retailer establishes the equipment is fuelled by electricity and gas. The retailer is then required to establish whether the other fuel is supplied by another retailer. If the retailer supplies both fuels, the retailer becomes the registered process owner for both fuels.

Scenario 3 – electricity and gas customer contacts gas distributor

Under this scenario the customer contacts their gas distributor and the gas distributor establishes the equipment is fuelled by electricity and gas. The gas distributor becomes the process owner for gas and notifies the gas retailer. The gas distributor advises the customer to contact their electricity retailer or distributor. The gas distributor is required to keep records of the information provided to the customer.

Scenario 4 – electricity and gas customer contacts electricity distributor

In this scenario, the customer contacts their electricity distributor and the electricity distributor establishes the equipment is fuelled by electricity and gas. The electricity distributor becomes the process owner for electricity and notifies the electricity retailer. The electricity distributor advises the customer to contact their gas retailer or distributor. The electricity distributor is required to keep records of the information provided to the customer.

Scenario 5 – embedded network electricity and gas customer contacts exempt seller

In this scenario, the customer contacts their exempt seller and the exempt seller establishes if the equipment is fuelled by both electricity and gas. The exempt electricity seller is required to advise the customer to contact their gas retailer directly. In this scenario, the gas retailer becomes the registered process owner for the gas component of the customer's life support equipment. The exempt seller is required to keep records of the information provided to the customer.

5.3. Timely notification of life support customers and update of registers

Draft decision 18: Retailers, distributors and exempt persons will be required to notify other parties in a timely manner

We propose to require the registration process owner to notify the other party of a customer requiring life support equipment within one business day after notification from the customer.

Draft decision 19: Retailers, distributors and exempt persons will be required to update their registers in a timely manner

We propose to require the registration process owner to update its register within one business day after notification from the customer requiring life support equipment.

We propose to require the other party to update its register within one business day after notification from the registration process owner.

As discussed in section 4.3.2, there are no time-bound obligations in the National Energy Retail Rules that require the registration process owner to notify the other party about the customer who requires life support equipment.

We consider that this is a weakness in the national framework, particularly where the energy business does not have automated processes to notify the other party or update its register. We propose to address these issues by requiring the registration process owner to update its register within one business day after notification from a customer. We also propose to require the registration process owner to notify the other party within one business day after notification from a customer. The registration process owner will be required to advise the other party that a person residing or intending to reside at the customer's premises requires life support equipment and the date from which the life support equipment is required.

We also propose to require the other party to update its register within one business day after notification is received from the registration process owner that a customer requires life support equipment.

We consider that the obligation to notify the other party within one business day will ensure that vulnerable customers are protected in a timely manner.

Stakeholder questions 8 and 9: Seeking stakeholder views on the time-bound notification requirements

8. Can stakeholders envisage any issues with requiring the registration process owner to notify the other party within one business day after being notified by the customer? If so, please provide reasons why this would be challenging to implement.

9. Can stakeholders envisage any issues with requiring retailers, distributors and exempt persons to update their registers within one business day of becoming aware that the customer is a life support customer?

5.4. Harmonising the definition of life support equipment

Draft decision 20: We propose to adopt the existing definition of life support equipment that is in the Energy Retail Code and apply it all three energy codes.

A key element of the existing life support obligations under the Victorian codes and the National Energy Retail Rules is the definition of life support equipment. Appendix A shows the current definitions of life support equipment under the National Energy Retail Rules, the Energy Retail Code and the Electricity Distribution Code.

We consider it essential that the definition of life support equipment is consistent across all three codes.

5.5. Medical confirmation inclusion of medical certificates

Draft decision 21: We propose to amend the required content of the medical confirmation form to include medical confirmation or a current medical certificate certifying that a person residing at the customer's premises has a medical condition which requires continued supply of electricity or gas or both.

One of the differences between the Victorian codes and the National Energy Retail Rules is that the Victorian codes also allow (under the category 'other life support equipment') the customer to provide a current medical certificate certifying that a person residing at the customer's premises has a medical condition which requires continued supply of electricity or gas.

We propose to retain this provision in our amended codes. This is because, in some cases, customers may already have this certification, which would mean that they do not need to seek any

additional confirmation from a registered medical practitioner that they require life support equipment. In practice, this would mean a customer would send the medical certification to the registered process owner along with the other information required.

As a consequence, we propose to also amend the required content of the medical confirmation form to include medical confirmation or a current medical certificate certifying that a person residing at the customer's premises has a medical condition which requires continued supply of electricity or gas or both.

6. Life support customers in embedded networks

Exempt persons selling or supplying electricity to customers within embedded networks already have life support obligations in the Energy Retail Code and Electricity Distribution Code. When exempt persons register with us they must submit a declaration that they understand they have life support obligations. In addition to working with peak bodies and consumer groups who represent embedded networks and their customers during this consultation process, we will directly notify exemption holders registered with us about any changes to their life support obligations, including where they can find more information.

6.1. Additional obligations for embedded networks

Draft decision 22: We propose to largely apply the obligations that will exist for licensed electricity retailers and distributors under the amended Energy Retail Code and Electricity Distribution Code to exempt sellers and suppliers.

We also propose to include additional obligations to ensure that life support customers are validly registered with the:

- exempt seller
- exempt supplier
- licensed retailer at the gate meter who sells electricity to the exempt seller
- licensed distributor whose network supplies the embedded network.

Our proposed approach will ensure that a life support customer in an embedded network is protected from disconnection or de-energisation by exempt sellers and suppliers, the retailer at the gate meter, and the distributor supplying the embedded network (except in the cases of a supply outage or a disconnection initiated by a customer).

6.1.1. Exempt sellers additional obligations

To ensure that the retailer at the gate meter and the distributor are aware of the life support customer, we have included additional obligations on exempt sellers. When an exempt seller is notified by a customer that they require life support equipment, an exempt seller will be required to:

- notify the exempt supplier (if it is a different party) of the life support customer
- provide the customer with a medical confirmation form and the other required information within five business days

- after notification from the customer, notify the retailer at the gate meter within one business day that there is a customer who requires life support equipment (the retailer will then in turn notify the distributor)
- liaise between the customer and the retailer at the gate meter to ensure that medical confirmation is provided to the retailer.

6.1.2. Exempt supplier additional obligations

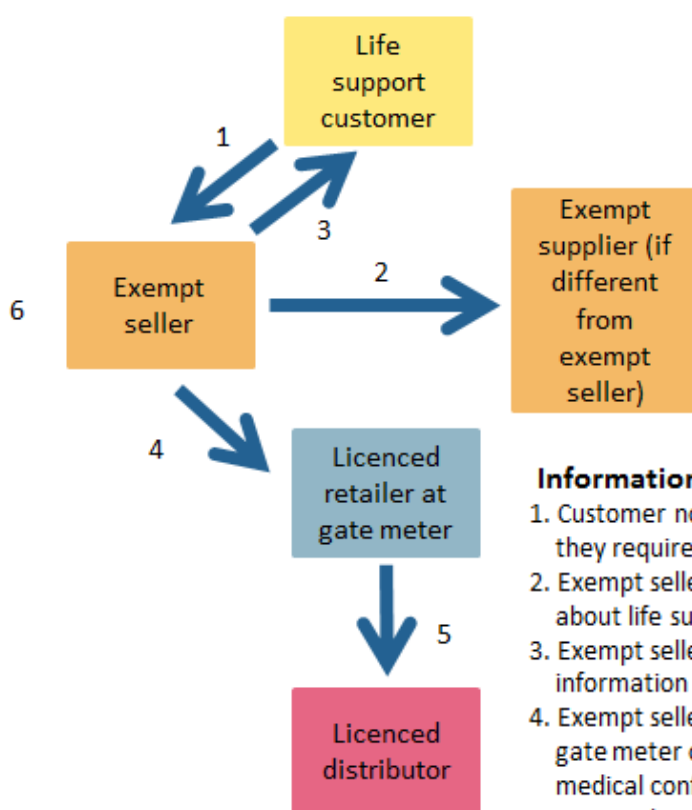
When an exempt supplier is notified by a customer that they require life support equipment – and in the event that the exempt supplier is a different party to the exempt seller – the exempt supplier will be required to:

- register the life support customer
- notify the exempt seller within one business day after notification from the customer.

The exempt seller's obligations will then commence and it will be required to notify the licensed retailer at the gate meter who in turn notifies the distributor supplying the embedded network.

It is important to note that the exempt seller will always be the registration process owner, as it is the party with a relationship with the licensed retailer at the gate meter.

6.1.3. Diagram of information flows



Information flow

1. Customer notifies exempt seller that they require life support equipment.
2. Exempt seller notifies exempt supplier about life support customer.
3. Exempt seller provides life support customer information including medical confirmation form.
4. Exempt seller notifies licenced retailer at gate meter of life support customer and provides medical confirmation to licenced retailer.
5. Licenced retailer notifies licenced distributor of life support customer.
6. Exempt seller liaises with customer to ensure licenced retailer receives medical confirmation.

Note: The customer could notify the exempt supplier first. If so, the exempt supplier must notify the exempt seller. The exempt seller is then required to complete steps 3 to 6.

6.2. On-market embedded network customers

The term 'on-market customer' refers to a customer who has successfully entered into a contract with a licensed retailer but is still supplied electricity by an exempt supplier's embedded network.

Draft decision 23: We do not propose to adopt the Australian Energy Market Commission's final recommendation to make exempt suppliers the registration process owner for life support customers who live in embedded networks.

We also do not propose to include additional provisions that would cover on-market embedded network customers, such as the ability for a licensed retailer or distributor to notify an exempt supplier that the customer no longer requires life support equipment.

The Australian Energy Market Commission recently released its final report to update the regulatory arrangements for embedded networks.⁵⁵

In summary, the market commission recommended that:

- certain embedded networks would be elevated into the Australian Energy Regulator’s retailer authorisation regime and would have to register with the Australian Energy Market Operator⁵⁶
- the National Energy Retail Rules would apply to many embedded networks, including the life support obligations contained in the rules
- a new concept of the ‘Embedded Network Service Provider’ would become the registration process owner for both on-market and off-market customers as these customers all have a relationship with them.

The reason that the Australian Energy Market Commission made these recommendations was to ensure that both on-market and off-market customers could be registered as life support customers with all the relevant parties.

Based on the Australian Energy Market Commission’s final report, we understand that there are still significant barriers, particularly for residential customers, to leaving embedded networks. We also understand that licensed retailers generally find it challenging to sell electricity to customers in embedded networks due to the limitations of current market and system arrangements.⁵⁷

Accordingly, we do not consider that there will be any, or many, on-market residential embedded network customers. Therefore, in developing this draft decision we believe that catering for on-market embedded network customers creates additional complexity in the energy codes that may not be needed at this time. However, we are seeking stakeholder views on this assumption and also note that the commission will monitor whether there is a need to extend life support protections to on-market customers in the future.

An alternative approach

If stakeholders believe that there are on-market embedded electricity network customers who should receive life support protections, we welcome their views on an alternative approach outlined below.

The alternative approach would require an exempt supplier to disclose and record information, where it knows that the customer is on-market and is sold electricity by a licensed retailer. We

⁵⁵ Available at: <https://www.aemc.gov.au/market-reviews-advice/updating-regulatory-frameworks-embedded-networks>

⁵⁶ Victoria has its own licensing and exemptions framework that operates separately to the AER’s authorisation regime.

⁵⁷ See page iii of the AEMC Updating the regulatory frameworks for embedded networks, Final report, 20 June 2019.

consider that exempt suppliers would know which customers are on and off market within their embedded networks. In this instance, the exempt supplier would be required to:

- register the customer as requiring life support equipment; and
- advise the customer that they must contact their licensed retailer directly to register as a life support customer to ensure they receive protections from all parties; and
- keep records of the information provided to the customer.

We believe that approach would result in the on-market customer being registered as a customer requiring life support equipment with their exempt supplier, licensed retailer and with the licensed distributor. However, we question if the customer would be protected from disconnection in the event that the licensed retailer at the gate meter disconnected the exempt seller or whether the licensed distributor would directly notify the customer of planned outages.

Despite the above alternative approach, we believe that further consideration would be needed regarding the equivalent provisions for licensed retailers and distributors in de-registering life support customers and how information flows could work in practice.

Stakeholder questions 10-12: Seeking stakeholder views on not adopting an approach that always makes the exempt supplier the registration process owner

10. We are seeking stakeholder views on our approach of always requiring the exempt seller to always be the registration process owner.

11. We are also interested to know from embedded network operators, the number of residential customers who have left their embedded network and are sold electricity by a licensed retailer? Does the commission need to account for these on-market embedded network customers in the design of the new life support obligations?

12. Is there merit in the commission considering the alternative approach outlined above? If so, please provide reasons why these obligations would be needed. We also would like to know if an on-market customer, who is registered as requiring life support equipment, would be protected against disconnection in the event that the licensed retailer at the gate meter disconnected the exempt seller. Additionally, we would like to know if licensed distributors will notify the on-market customer about planned supply outages.

6.3. Notification of planned supply interruptions in the distribution network

Draft decision 24: We propose to require exempt sellers and suppliers (where applicable) to notify life support customers of a planned interruption in the distributor's network within one

business day after receiving notification from the distributor that an interruption will affect the gate meter.

The exempt person will be required to provide details to the customer within one business day including:

- the expected date, time and duration of the interruption
- a 24-hour telephone number for the distributor.

We consider that there is currently a gap in the regulatory framework where exempt persons are not obligated to notify life support customers about planned interruptions in the distribution network.

We note that distributors are currently required to notify the exempt seller at least four business days prior to the planned outage.⁵⁸ However, there is currently no mechanism that requires the exempt seller to pass this information on to customers within an embedded network.

We view the requirement for an exempt person to notify a life support customer of a planned distributor interruption in a timely manner to be a critical customer protection. This notification will allow a customer to prepare for the planned outage and make alternative arrangements to manage their life support equipment requirements for the duration of the outage.

⁵⁸ Clause 5.5 of the Electricity Distribution Code.

7. How we regulate the energy sector

Our role and objectives

The commission is Victoria's independent economic regulator. Under the Essential Services Commission Act 2001, our key objective is to promote the long-term interests of Victorian consumers with respect to the price, quality and reliability of essential services.⁵⁹ Another objective of the commission under both the Electricity Industry Act 2000 and Gas Industry Act 2001, is to the extent that it is efficient and practicable to do so, promote a consistent regulatory approach between the electricity industry and the gas industry.⁶⁰ Additionally, we also must have regard to consistency in regulation between states and with the national laws and rules.⁶¹

Licensing

We are responsible for granting licences to persons wishing to generate, transmit, distribute or retail electricity and gas in Victoria. We may grant licences subject to any conditions we consider appropriate,⁶² having regard to our objectives under the:

- Essential Services Commission Act 2001
- Electricity Industry Act 2000
- Gas Industry Act 2001.

Licensed entities are required to comply with energy rules that we make in codes and guidelines as a condition of their licence.

Exempt persons

Exempt persons are typically embedded electricity networks found in premises such as apartment buildings, retirement villages, caravan parks and boarding houses and are exempt from the requirement to hold an electricity licence.⁶³ We also refer to exempt persons as exempt sellers, exempt suppliers and embedded networks, depending on the service it provides to an end consumer. Exempt sellers do the retail functions such as sending bills, while exempt suppliers do

⁵⁹ Section 8 of the Essential Services Commission Act 2000.

⁶⁰ Section 10(a) of the Electricity Industry Act 2000 and section 18(a) of the Gas Industry Act 2001.

⁶¹ Section 8A(1)(f) of the Essential Services Commission Act 2000.

⁶² Section 20(2) of the Electricity Industry Act.

⁶³ Persons undertaking certain electricity sale, supply or generation activities may be exempt from the requirement to hold an electricity licence under section 16 of the Electricity Industry Act 2001. These exemptions are granted by Order in Council. The current exemptions framework is in the General Exemption Order 2017.

the network functions such as taking the meter readings and maintaining the network infrastructure. Sometimes the exempt seller and exempt supplier are the same company.

The commission administers and maintains a public register of persons who are exempt from the requirement to hold a licence.⁶⁴ We are also responsible for determining which provisions of the Energy Retail Code and Electricity Distribution Code apply to exempt sellers and suppliers.

In 2018, we consulted on our draft decision regarding which provisions of the Energy Retail Code would apply to embedded networks. During that consultation, we engaged with stakeholders and recommended that life support obligations should apply to embedded networks. This approach was adopted in our final decision and embedded networks are currently subject to life support obligations under both the Energy Retail Code and Electricity Distribution Code.

We consider life support obligations to be a core customer protection. We also consider that where appropriate, all customers should be afforded the same protections regardless of whether they obtain their electricity supply from a licensed retailer, distributor or through an embedded network.

We note that there is no gas licence exemptions framework in Victoria at this time.

⁶⁴ The register does not include deemed exemptions as these apply automatically and do not need to be registered with the commission.

Glossary

Term	Definition
Confirmation from a registered medical practitioner	See medical confirmation
Customer who requires life support equipment	See <i>Life support customer</i> .
Embedded network	Embedded networks are privately owned and operated networks where an exempt person supplies and sells electricity to customers in properties such as apartment buildings, retirement villages, caravan parks and boarding houses.
Exempt person	<p>Exempt persons are typically embedded electricity network owners and operators found in buildings such as apartment buildings, retirement villages, caravan parks and boarding houses. Exempt persons are exempt from the requirement to hold an electricity licence.</p> <p>Persons undertaking certain electricity sale, supply or generation activities may be exempt from the requirement to hold an electricity licence under section 16 of the Electricity Industry Act 2001. These exemptions are granted by Order in Council. The current exemptions framework is in the General Exemption Order 2017.</p>
Exempt seller	Exempt sellers undertake the retail functions of an embedded network such as sending bills, credit collection and handling enquiries and complaints. Exempt sellers are referenced as an 'exempt person' in the Energy Retail Code.
Exempt supplier	Exempt suppliers undertake the network functions of an embedded network such as taking the meter readings and maintaining the network infrastructure. Exempt suppliers are referenced as an 'exempt distributor' in the Electricity Distribution Code.
Gate meter	A gate meter is also known as a 'parent meter'. It is a contestable on-market meter that is used to measure the total electricity supplied by a licensed retailer and distributor to an exempt seller's embedded network.
Life support customer	Life support customer or customer requiring life support equipment means customers who

	reside or intend to reside at a premises where life support equipment is required. This person may or may not be the customer themselves.
Life support equipment	<p>Life support equipment means any of the following:</p> <ol style="list-style-type: none"> 1. an oxygen concentrator; 2. an intermittent peritoneal dialysis machine; 3. a kidney dialysis machine; 4. a chronic positive airways pressure respirator; 5. crigler najjar syndrome phototherapy equipment; 6. a ventilator for life support; 7. in relation to a particular customer—any other equipment (whether fuelled by electricity or gas) that a registered medical practitioner certifies is required for a person residing at the customer’s premises for life support or otherwise where the customer provides a current medical certificate certifying that a person residing or intending to reside at the customer’s premises has a medical condition which requires continued supply of electricity or gas;
Medical confirmation	Certification from a registered medical practitioner that a person residing or intending to reside at a customer’s supply address requires life support equipment (including certification in a document other than the medical confirmation form)
Registration process owner	The party (retailer or distributor) first contacted by the customer to advise they require life support equipment. The registration process owner maintains specific obligations in relation to registration, confirmation, deregistration and information sharing and record keeping
The other party	The energy business that is not the registration process owner.

Appendix A – Life support equipment definitions

National Energy Retail Rules version 17	Energy Retail Code version 13	Electricity Distribution Code version 9A
<p>Life support equipment means any of the following:</p> <ol style="list-style-type: none"> 1. an oxygen concentrator; 2. an intermittent peritoneal dialysis machine; 3. a kidney dialysis machine; 4. a chronic positive airways pressure respirator; 5. crigler najjar syndrome phototherapy equipment; 6. a ventilator for life support; 7. in relation to a particular customer—any other equipment that a registered medical practitioner certifies is required for a person residing at the customer’s premises for life support; 	<p>Life support equipment means any of the following:</p> <ol style="list-style-type: none"> 1. an oxygen concentrator; 2. an intermittent peritoneal dialysis machine; 3. a kidney dialysis machine; 4. a chronic positive airways pressure respirator; 5. crigler najjar syndrome phototherapy equipment; 6. a ventilator for life support; 7. in relation to a particular customer—any other equipment (whether fuelled by electricity or gas) that a registered medical practitioner certifies is required for a person residing at the customer’s premises for life support or otherwise where the customer provides a current medical certificate certifying that a person residing at the customer’s premises has a medical condition which requires continued supply of electricity or gas; 	<p>Life support equipment means any of the following:</p> <ol style="list-style-type: none"> 1. an oxygen concentrator; 2. an intermittent peritoneal dialysis machine; 3. a kidney dialysis machine; 4. a chronic positive airways pressure respirator; 5. crigler najjar syndrome phototherapy equipment; 6. a ventilator for life support; and 7. in relation to a particular customer—any other equipment (whether fuelled by electricity or gas) that a registered medical practitioner certifies is required for a person residing at the customer’s premises for life support or otherwise where the customer provides a current medical certificate certifying that a person residing at the customer’s premises has a medical condition which requires continued supply of gas;

Note from the Australian Energy Regulator – Life support registration guide 2019: Importantly, the definition of life support equipment includes a category for ‘other’, being any equipment that a medical practitioner considers is essential for their patient. ‘Other’ life support equipment may include, but is not limited to, the following:

1. external heart pumps
2. respirators (iron lung)
3. suction pumps (respiratory or gastric)
4. feeding pumps (kangaroo pump, or total parenteral nutrition)
5. insulin pumps
6. airbed vibrator
7. hot water
8. nebulizer, humidifiers or vaporizers
9. apnoea monitors
10. medically required heating and air conditioning
11. medically required refrigeration
12. powered wheelchair.

Appendix B – Summary of comparison between national and Victorian codes

Overview of life support obligations – key differences between the National Energy Retail Rules and the Energy Retail Code, Electricity Distribution Code and Gas Distribution System Code

Purpose

The purpose of this document is to provide a high-level comparison between the National Energy Retail Rules and the existing Victorian energy codes:

- Energy Retail Code
- Electricity Distribution Code
- Gas Distribution System Code

It is important to note that exempt persons currently have life support obligations in both the Energy Retail Code and Electricity Distribution Code. However, the life support obligations in the National Energy Retail Rules do not currently extend to exempt persons. Accordingly, the comparisons in this document only focus on the differences between the national framework and Victoria's energy codes for licensed retailers and distributors.

Key differences:

- The National Energy Retail Rules introduces the concept of the registration process owner. Registration process owner refers to the party (retailer or distributor) first contacted by the customer to advise they require life support protections. They maintain specific obligations in relation to registration, confirmation, deregistration and information sharing/record keeping.⁶⁵
- Major changes to registration and confirmation process. The National Energy Retail Rules requires registration to occur at the first point of contact, with a medical confirmation process to follow. The Energy Retail Code and Electricity Distribution Code only require registration to occur when medical confirmation has been received.
- The National Energy Retail Rules requires retailers and distributors to provide the customer with a medical confirmation form. Currently, retailers and distributors are not required to provide any information or forms to help the customer obtain medical confirmation.

⁶⁵ For more information see: Australian Energy Regulator, *Life support registration guide*, 2019, available at: <https://www.aer.gov.au/system/files/AER%20Life%20support%20registration%20guide%202019.pdf>.

- The National Energy Retail Rules requires retailers and distributors to provide more information to customers informing them of rights, obligations and processes.
- The National Energy Retail Rules requires more communication between retailers and distributors.
- The National Energy Retail Rules addresses current problems with the inaccuracy of registers.
- There are no specific life support obligations in the Gas Distribution System Code.

Table key

Areas in which Victoria’s current regulation does not align with the National Energy Retail Rules are highlighted in red. Areas in which Victoria’s current regulation only partially aligns with the National Energy Retail Rules are highlighted in yellow. Areas of Victoria’s regulation which align with the National Energy Retail Rules sufficiently are highlighted in green.

National Energy Retail Rules	Energy Retail Code	Electricity Distribution Code
Registration		
Registration occurs when customer first notifies retailer or distributor that life support equipment is required.	Registration does not occur until medical confirmation is received.	Registration does not occur until medical confirmation is received.
Must provide a medical confirmation form to customers and explain that returning the form is required/satisfies conditions for registration.	No requirement to provide a form or to advise the customer they must provide medical confirmation.	No requirement to provide a form or to advise the customer they must provide medical confirmation.
Detailed confirmation process requiring reminder notices and option for extensions.	No requirement for confirmation process or reminders.	No requirement for confirmation process or reminders.
Must inform the other party (either retailer or distributor) and provide relevant information in writing within 5 business days so they too can	Retailer is required to inform the distributor and provide relevant information but no requirement for timeframe or to provide information in writing.	No requirement.

register the premises.		
National Energy Retail Rules	Energy Retail Code	Electricity Distribution Code
Providing information		
Requires retailers and distributors to provide customer with detailed information about interruptions ⁶⁶ , advice to prepare a plan of action for interruptions, two emergency phone numbers, that the customer may be de-registered if medical confirmation is not provided, what to do if the customer changes retailer.	Only need to provide one emergency phone number for the distributor only.	Only need to provide one emergency phone number and advice to prepare a plan of action.
Information must be provided in writing and within 5 business days of the customer notifying the retailer/distributor.	No requirement for timeframe or to provide this in writing.	No requirement for timeframe or to provide this in writing.
Ongoing obligations		
Retailers and distributors must not de-energise the premises.	Retailers must not de-energise the premises.	Distributors must not de-energise the premises.
Retailer/distributor (whoever causes interruption) must give at least 4 business days' written notice for planned interruptions.	No requirement to give customer notice.	Distributors must give the customer at least 4 business days' written notice.

⁶⁶ Interruptions include unplanned interruptions and planned distributor and retailer interruptions for which the customer will be notified in writing 4 business days in advance (unless the customer has given consent, in which case they will be notified 24 hours in advance). See attachment 3 - Detailed comparison of national and Victorian life support frameworks.

Detailed processes for retailers and distributors to ensure that records are up to date, including de-registrations, and to keep records of important details and communications with the customer.	No requirement to update records or to keep records of communications.	Distributors must take reasonable steps to ensure accuracy of their registers at least once a year. No requirement for how this process takes place. No requirement to keep a record of communications.
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De-registration

<p>Details three circumstances for de-registration when the:</p> <ul style="list-style-type: none"> customer does not provide medical confirmation customer no longer requires life support customer changes retailer). 	Does not specify when de-registration is permitted or how it is to be completed.	Only applies when the customer advises the distributor that life support equipment is no longer required. The distributor may then cancel the registration. No requirement for how this is completed.
Detailed processes for how to complete de-registration (for example providing de-registration notices to the customer and timeframes).	The de-registration process is not specified.	The de-registration process is not specified.
Must inform the other party (either retailer or distributor) of de-registration and provide relevant information such as the date and reason for de-registration. The other party must then update its registration.	Retailer required to inform distributor if customer informs retailer life support equipment is no longer needed. No requirement to provide date or reason. No requirement for the distributor to update its register.	No requirement.