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25 October 2021

Ms Kate Symons
Chairperson
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

Submitted electronically

Dear Ms Symons,

Re: Compliance and Performance Reporting Guideline Draft Decision

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to make this submission to the Essential Services Commission's (the Commission's) draft decision on the Compliance and Performance Reporting Guidelines (the draft decision).

The vast majority of changes in the draft decision are well drafted and appropriate, however we encourage the Commission to provide additional clarification where sought by stakeholders during this consultation process. This will ensure that all retailers take a consistent approach to reporting. Red and Lumo strongly recommend that the Commission set an appropriate start date for the new Guidelines that allow for adequate implementation and consistency in reporting through the financial year.

Further consultation prior to the commencement of new reporting obligations

The new reporting guidelines not only amend some existing obligations, they also make permanent previous COVID reporting data as well as introduce a number of new reporting obligations. As a result, retailers need adequate time to fully examine all existing procedures and processes as well as amend existing documentation to reflect the new instruments.

We consider it appropriate to re-release another draft of the Compliance and Performance Reporting Guidelines and Energy Retail Code of Practice for consultation before they are finalised. This will provide confidence to participants that these two crucial documents are aligned, enabling all cross references and breach types to be reviewed by participants prior to the commencement of both instruments to allow for smooth transition to the new framework.

It is on this basis that we strongly recommend a 1 July 2022 commencement date for both the Energy Retail Code of Practice and the new Compliance and Performance Reporting Guidelines. This will allow time for systems and processes to be updated, whilst providing a clean commencement at the start of the financial year.

Reporting of disconnections

Red and Lumo agree with concerns raised at the Commission's recent forum on the draft guidelines in relation to reporting of disconnections. We agree with the suggestion that the final Guideline could be improved by providing retailers with a clear definition on what is considered a potential disconnection. The draft decision states, "for clarity, this requirement applies even if the matter has been referred to the Energy and Water Ombudsman (Victoria) (EWOV) or the commission".¹ This does not provide adequate clarity or definition on what would be considered "potential" and we welcome this to be incorporated into the final Guideline.

An unintended consequence of failing to provide a clear definition of what would be considered a "potential" as opposed to a confirmed wrongful disconnection will create a situation where all disconnections are considered "potential" and reportable to the Commission. It is unclear whether this is the intent of the Commission, as currently drafted it creates an inefficient outcome with both retailers and the Commission with an overreporting of legitimate disconnections. The Commission could consider reinstating the wording within the existing Guideline to avoid skewing the reporting process and published data.

About Red and Lumo

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria, New South Wales, Queensland, South Australia and in the ACT to over 1 million customers.

Red and Lumo thank the Commission for the opportunity to respond to its consultation on the Compliance and Performance Reporting Guidelines. Should you wish to discuss aspects or have any further enquiries regarding this submission, please [REDACTED]

Yours sincerely

[REDACTED]

Red Energy Pty Ltd
Lumo Energy (Australia) Pty Ltd

¹ Essential Services Commission, Compliance and Performance Reporting Guideline, Version 7, September 2021, p7