

Project Team
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2000

Submitted online.

4 August 2022

RRC0042 – Protecting Customers Affected by Family Violence Draft Rule Determination

The Australian Energy Council ('AEC') welcomes the opportunity to make a submission to the Australian Energy Market Commission's ('AEMC') *Protecting Customers Affected by Family Violence* Draft Rule Determination ('Draft Determination').

The Australian Energy Council is the peak industry body for electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. AEC members generate and sell energy to over 10 million homes and businesses and are major investors in renewable energy generation. The AEC supports reaching net-zero by 2050 as well as a 55 per cent emissions reduction target by 2035 and is committed to delivering the energy transition for the benefit of consumers.

This rule change has come about due to the proactive efforts of industry in recommending a regulatory framework around family violence protections aligned with the Victorian model. This is an area where retailers had already developed their own individual procedures and policies; however, a rule change was introduced to ensure industry-wide minimum standards, recognising the magnitude of the issue.

The AEMC's Draft Determination has chosen to go beyond the Victorian model, adding or adjusting obligations where it believes necessary. The AEC will let individual retailers comment on the merits of these additional proposed rules. The scope of this submission relates to the AEMC's proposal to recommend Tier 1 civil penalty provisions be applied for breaches of nine provisions in this draft rule.

While the AEC acknowledges the desire to ensure maximum compliance, we do not consider a heavy-handed approach to enforcement to be suitable here, given the sensitive nature of family violence. Family violence protections are not a tick-the-box compliance exercise and retailers, and their trained staff, need confidence to respond to each circumstance on its individual merits. The AEMC is aware of this because it sought to embed flexibility into the way retailers can help customers through the existence of "override provisions".

This is a positive step, but the regulatory certainty and confidence it intends to give retailers will arguably be undercut by the threat of large fines. There is unfortunately no perfect solution for addressing family violence, and even highly trained staff can be expected to make mistakes. These staff may be hesitant to pursue a preferable or novel solution to the customer's circumstances if it risks a substantial fine. This would appear to go against the spirit of the rule change and the Draft Determination, which otherwise seeks to provide a "targeted and proportionate solution" that "allows retailers to develop their own systems and processes to deliver outcomes".

The AEC believes it is better to incentivise a culture of learning, both within the retail business, and with the regulator, and this should involve acknowledging mistakes are part of the journey. From an outside

perspective, it would be undesirable if the regulator and retailers were to be perceived as non-cooperative on this problem.

Finally, since the AEMC Draft Determination proposes provisions beyond what is in the Victorian model, there should be a reasonable adjustment period to allow retailers to monitor compliance with these new obligations, without the presence of large fines.

Family violence reporting requirement

The AEC understands the AEMC is contemplating a clause to enable the AER to report on some family violence metrics. While this might sound forward-thinking, the AEC is unsure what benefits such data would bring. This is said for several reasons:

- Family violence numbers across retailers are not comparable so it is not apparent what the AER would be monitoring. Different numbers across retailers, jurisdictions, and time periods would be hard to interpret and gain meaning from – for example, a retailer with low numbers might have an exceptional support program, poor identification protocols, or it could be purely coincidental.
- Family violence indicators are external (i.e. rely on a customer providing information about their circumstance). This makes it different to hardship identification where retailers can rely on account-based indicators.
- A retailer can use data to monitor and assist with the gradual progress of a customer out of financial hardship, but it cannot really do the same for family violence. While it can have measures in place to protect customers, the only real measure of improvement is a customer reporting that they are no longer in a family violence situation.

In short, there is no data metric for measuring retailer performance with respect to family violence. The AEC believes more information should be provided about how the data will be used before such a change is considered. This way stakeholders can weigh the benefits of this rule change, and its compliance costs.

Any questions about this submission should be addressed to Rhys Thomas, by email Rhys.Thomas@energycouncil.com.au or mobile on 0450 150 794.

Yours sincerely,

Rhys Thomas
Policy Adviser
Australian Energy Council