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To Whom It May Concern

Compliance Procedures and Guidelines review – draft guidelines- Submission

Energy Locals Pty Ltd (ACN 606 408 879) ("Energy Locals") welcomes the opportunity to provide feedback ahead of the introduction of the proposed amendments to the AER Compliance Procedures and Guidelines ("Guidelines").

Energy Locals supports a revision of the Guidelines to ensure that they remain relevant and effective in line with the changing regulatory landscape, improve efficiency and effectiveness of the reporting process, and reduce undue burden on retailer resources.

This submission will:

- provide feedback on the proposed implementation timeline;
- discuss the appropriateness of the inclusion of new immediately reportable obligations;
- express our concerns with the introduction of the reporting of material breaches;
- provide feedback on the clarification on reporting of de-energisation; and
- express our support for the streamlining of reporting obligations.

1. Background – Overview of Energy Locals

Energy Locals is an authorised electricity and gas retailer that supports customers directly as well as via partnerships with newcomers to the energy retail sector, such as RACV, Indigo Power, IO Energy, Tesla, and others. A retail gas offer has not yet been launched.

We also have extensive expertise in the implementation and management of embedded networks, which include electricity, gas, hot water, solar PV, electric vehicle charging, battery storage and telecommunications.

2. Implementation Timeline

Energy Locals proposes extending the commencement date to 1 July 2025, providing an additional 6 months for regulated entities and the AER to adapt their systems and process, including allowing the AER with sufficient time to provide guidance materials. This additional time would not only help alleviate potential challenges but also foster a more collaborative environment for stakeholder feedback and implementation discussions. This collaborative effort will ensure that reporting is accurate, transparent, and consistent. There have been a number of large regulatory-driven changes in recent times and a period of system stability would undoubtedly benefit customers.

There are several steps that the AER can take to minimise the costs and burden of reporting under the revised Guidelines. We have set out some of these below.

a. *Clear and transparent communication*

   Energy Locals urges the AER to ensure that the requirements of the revised Guidelines are communicated clearly, transparently and without ambiguity to retailers to ensure that these key stakeholders understand their obligations more effectively, reducing the likelihood of errors or misrepresentations that could incur additional costs.

b. *Training and capacity building*

   A collaborative approach to the implementation of the new Guidelines is critical, particularly the provision of training sessions, workshops, and educations materials by the AER to ensure that retailers understand the new reporting requirements and can implement them effectively.

c. *Standardisation and simplification*

   Where possible, the AER could work with other regulatory bodies to standardise reporting formats and requirements and help avoid 'double ups' across different regulators.

d. *Flexibility and tailored approaches*

   It should be recognised that different sized entities may have varying capabilities and resources availability. The AER could consider offering flexibility in reporting deadlines or allowing alternative reporting methods for smaller entities. Tailoring approaches to accommodate diverse needs can help minimise compliance costs while still achieving regulatory objectives.

3. New reportable obligations

a. *Family violence*

   Energy Locals would like to express its support for the increased effort to protect vulnerable customers, particularly those affected by family violence. It is imperative that

we, as key stakeholders in the energy sector, prioritise the safety and well-being of our customers.

While we agree with the concept of tiered reporting, we believe that tier one, immediately reportable breaches should be reserved for situations that pose an imminent risk of significant harm to a customer. Examples of such breaches could include instances where a customer requiring life support faces disconnection. By focusing tier one reporting on breaches with the highest potential for harm, we can ensure that resources are allocated effectively and that urgent situations receive immediate attention. This approach not only streamlines reporting processes but also ensures that regulatory efforts are targeted where they are most needed.

The language in rule 76D of the NERR around the family violence breach reporting requirement is subjective and lacks specificity. Without further guidance from the AER, there is a risk of ambiguity and inconsistency in its application across different cases and stakeholders.

We believe that providing clearer, more specific guidance on what constitutes relevant customer circumstances would enhance the effectiveness and fairness of the reporting process. This could include examples or criteria that stakeholders can refer to when assessing whether a breach should be reported based on a customer's circumstances.

We consider that disclosure of information about a family violence customer, without that customer's consent, to be of significant risk to the customer to warrant a breach of rule 76G(1) of the NERR and be immediately reportable.

b. *Presentation of standing offer prices*

While the proposal to include section 24 of the NERL as a half-yearly reporting requirement aims to enhance transparency in pricing information, we note that very few customers choose standing offer tariffs, instead opting for market offers that attract discounts. On that basis, we wonder whether the severity level of a breach for, for example, lack of prominent publication of standing offer prices is appropriate. This is especially the case when the determination of prominence is highly subjective and affected by a wide range of external factors.

Market offer prices often involve more complex structures and incentives and consumers which require greater explanation than standing offer tariffs. Further, standing offer prices usually change only once per year, reflect a regulated benchmark and are unlikely to be influenced by market competition and other factors.

Further, we believe it is incorrect to state that the addition of the standing offer obligations as reportable under the Guidelines is not a burden. Despite similarities between breaches of standing offer and market offer pricing obligations, it's crucial to acknowledge that preparing reports for submission requires significant time and resource. Each reporting requirement, regardless of similarity, adds to the overall workload for retailers. Even if retailers are already reporting non-compliances with market offer pricing obligations, the addition of standing offer obligations as reportable under the Guidelines

constitutes additional reporting work. This additional workload may not be trivial, especially when considering the complexities of compliance across multiple jurisdictions.

c. *Energisation on request for sale of energy and re-energisations*

Energy Locals certainly recognises the importance of ensuring timely energisation for customers under standing offers, however we do not agree with the proposed inclusion of rule 19(2)(b) of the NERR as a half-yearly reportable obligation under the Guidelines.

On reading rule 19(2)(b), it seems clear that the primary responsibility for energisation lies with metering coordinators or distributors, rather than the retailer. Therefore, it is more appropriate for reporting obligations to apply directly to these third-party entities responsible for executing the energisation process. By focusing reporting requirements on the parties directly involved in energisation, such as metering coordinators and distributors, regulatory efforts can be better targeted at ensuring compliance and accountability where it matters most. If a breach occurred solely due to the actions or omissions of a retailer, then we agree that this should be reportable. However, we believe that this requires further clarification from the AER before this requirement is implemented.

4. Reporting of material breaches and refinements to current reporting requirements

Energy Locals supports the removal of quarterly reporting and the transition to half-yearly reporting. This adjustment allows sufficient time for remediation and risk assessments and is in line with the Victorian framework.

However, Energy Locals opposes the proposed requirement to report any material breach of an obligation under the NERL, NERR and National Energy Retail Regulations as the broad scope of the requirement will result in varied interpretations by regulated entities when determining the materiality of a breach. This lack of uniformity in assessing breach severity could lead to inconsistencies in reporting, ultimately diminishing transparency in the regulatory process.

Despite the guidance provided in the draft Guidelines for assessing material breaches, the subjective nature of determining materiality, coupled with the expectation for regulated entities to develop their own assessment methodologies, may further exacerbate this issue. Additionally, while encouraging regulated entities to consult with the AER and adopt a conservative approach in reporting breaches as material is commendable, it will not fully address the underlying challenge of ensuring consistency and transparency in reporting practices. Therefore, there is a need for further clarification and standardisation of criteria for assessing breach materiality to mitigate the risk of inconsistent reporting and uphold transparency in regulatory oversight before this approach can be introduced.

As mentioned above, Energy Locals supports removing quarterly reporting to align with the Victorian framework but views the addition of material breach reporting requirements as complicating this alignment. While we investigate, and if necessary, remediate, all potential breaches that are identified within our business, having to also assess a potential breach for whether it is potentially reportable under the non-specific new material breach requirement will create significantly greater burden on our internal resources. Energy Locals believes that the current reporting framework, consisting of the

requirement to report breaches identified as significant and of impact, strikes an appropriate balance between transparency and compliance and administrative burdens on retailers.

The AER's suggestion to conservatively report suspected material breaches, even if they don't meet the 5 factors upon investigation, is also seen as unreasonable. This would entail investigation, resource allocation, and reporting for incidents that may later be deemed not reportable, potentially over and above what is warranted for an incident that may not even amount to a breach of the regulations.

If material breaches are deemed necessary, Energy Locals also requests the AER to provide clear, practical, and reasonable guidelines on this. These guidelines should specify clear rules relevant for considering a material breach and the circumstances under which a material breach can occur.

5. Clarification *on reporting de-energisations*

Energy Locals is in favour of additional clarity around reporting requirements concerning de-energisations. We find the existing framework ambiguous regarding a retailer's duty to report and required timelines. The proposed adjustments enhance the clarity of this duty, while also reducing the necessity to report de-energisations twice within the same reporting period to the AER.

6. Streamlining of reporting obligations

Energy Locals wholeheartedly supports the streamlining of reporting obligations relating to billing, retail contracts, explicit informed consent, interruption to supply, energy marketing activities and the deployment of new electricity meters.

Reducing the reporting requirements for certain lower risk obligations from the half-yearly reporting requirements will have the effect of minimising regulatory burden and administrative complexity for regulated entities, which is an important goal in fostering a conducive regulatory requirement. Reducing these reporting requirements will promote a more streamlined and efficient compliance process for regulated entities. It may also alleviate concerns about potential inconsistencies or ambiguities in reporting obligations, simplifying compliance efforts, and facilitating clearer communication of regulatory expectations.

Given these considerations, Energy Locals asserts that the streamlining of reporting obligations is warranted irrespective of the introduction of the material breach reporting requirement. In fact, introducing a new, more demanding, and subjective obligation in place of an existing one could unnecessarily complicate the reporting process for retailers. This complexity is likely to result in heightened costs and internal resource allocations and circumvent the intention of the proposed changes set out in section 4.3 of the Draft Instrument – explanatory statement.

7. Submission process and submission template

Energy Locals supports the implementation of a portal for logging, tracking, and viewing submissions. This eliminates the necessity for retailers to manage updated spreadsheet versions and simplifies the process of submitting information to the AER.

We would like to take this opportunity to thank the AER for the opportunity to provide this submission and for consultation.

Yours faithfully,

Adrian Merrick
Chief Executive Officer
Energy Locals Pty Ltd