

7 December 2021

Essential Services Commission
GPO Box 2605
ADELAIDE SA 5001

Submitted online via: escosa@escosa.sa.gov.au

Dear Sim

Retailer Energy Productivity Scheme (REPS) Code Review – Draft Decision

Thank-you for the opportunity to provide a submission in response to Retailer Energy Productivity Scheme (REPS) Code Review – Draft Decision (Consultation Paper).

Momentum Energy Pty Ltd (Momentum) is an Australian operated energy retailer, owned by Hydro Tasmania, Australia's largest producer of renewable energy. We pride ourselves on providing competitive pricing, innovation and outstanding customer service to electricity consumers in Victoria, New South Wales, South Australia, Queensland, the ACT and on the Bass Strait Islands. We also retail natural gas to Victorian customers. We offer competitive rates to both residential and business customers along with a range of innovative energy products and services.

Consultation Process

We would like to draw your attention to the section of the Consultation Paper headed 'Request for Submissions' where it is states that it is the Commission's policy to publish all respondent submissions however, we note that during the recent ESCOSA consultation regarding REPS reporting changes, complete submissions were not published. Only a summary of the points raised in submissions were provided in a table. We believe that respondents' complete submissions (subject to confidentiality) should be published together with and at the same time as the consultation decision documents. This would ensure that the full context of respondents' submissions are available as is the process with other regulatory organisations and is good industry regulatory practice.

Specific Responses to the Questions Raised in the Draft Decision

Consultation question 1

Do stakeholders support amending the existing requirement to provide an information statement to include the requirement to provide the name of the obliged retailer on whose behalf the activity is undertaken prior to commencement of the REPS activity (refer clause 6.1.2(b) of the draft REPS Code at Appendix 2)?

Please provide evidence in support of, or a preferred alternative to, that proposal.

Momentum does not support the requirement to list the obliged retailer on the information statement provided to customers at the commencement of the REPS activity due to the following reasons.

- Based on discussions with ESCOSA, at a recent industry forum, it appears that this code change has arisen to avoid customer complaints directly to ESCOSA regarding REPS activities. The actual number of complaints related to this issue was not disclosed. ESCOSA reported that some complaints from consumers had been received regarding defective or poor quality work by approved activity providers undertaking REPS activities and that ESCOSA was unaware of which retailer to refer these complaints to. Approved activity providers clearly state in their dispute and resolution procedure plans and their activity records (documents which are left at each site where activities are undertaken) that they take responsibility for any complaints or disputes regarding the onsite work and that they should be contacted directly in relation to these matters. Contact phone numbers and the address of the activity providers are included on each activity record. Therefore, Momentum believes that ESCOSA should firstly direct the customers back to the activity provider as they are best placed to manage the complaint and undertake any rectification work that may be required.
- Momentum is unsure why the obliged retailer needs to be identified at the commencement of the REPS activity as the retailer will have no information on the work detail or the quality of the work undertaken. We also believe that mentioning a retailer at the commencement of the work may confuse the customer as they may be supplied electricity by a different retailer. The customer may question why a different retailer is involved with this REPS activity work on their property.
- Any defective work related to a REPS activity will need to be undertaken by the activity provider as the retailer has no resources or capabilities to undertake any corrective work. A retailer will need to refer the customer back to the activity provider to understand and resolve the issue which is an inefficient process and not a positive customer experience.
- The identity of the obliged retailer may not be available prior to the commencement of the REPS activity as the activity provider may not have allocated a retailer to the REPS activity at that time. Furthermore, if this obligation is mandated it could increase the cost of REPS activities as activity providers will be unable to perform

REPS activities in advance of contracting with a retailer and may be unable to split activities at the same site across multiple retailers.

- ESCOSA approves the list of activity providers (currently 8 providers are listed on the ESCOSA website) that retailers must contract with for REPS activities and therefore ESCOSA is well placed to redirect any complaints directly to the activity providers. If a suitable resolution is not achieved then ESCOSA could remove these activity providers from their approved list.
- The energy ombudsman is not the most appropriate body to manage these complaints as activity providers are not licensed retailers. REPS activity providers are similar to solar installers and other small contractors whereby disputes are managed via the Australian Competition and Consumer Commission (ACCC) Service Complaints Department.

Consultation question 2

Do stakeholders support the introduction of minimum standards which must be applied by obliged retailers when conducting fit and proper person assessments (refer clause 6.6.2 of the draft REPS Code at Appendix 2)?

Please provide evidence in support of, or a preferred alternative to, that proposal.

Momentum is unsure of what ESCOSA is trying to achieve by imposing firmer obligations on retailers to ensure that approved activity providers are better assessed as fit and proper persons. Momentum makes every effort to appoint credible activity providers from the ESCOSA approved activity provider list and we see no need to make these code amendments. There is a limit to what information a retailer can source from an activity provider and the proposed code changes do not appear to define any additional specific fit and proper person tests or qualifications for retailers to undertake. Instead they appear to simply place more onerous code responsibilities onto retailers regarding the assessment of an activity provider. Momentum is concerned that the intent of these changes is to place additional responsibility onto retailers that is largely impossible to manage.

Momentum proposes that some responsibility for assessing that activity providers are fit and proper persons rests with ESCOSA as they collate the approved activity provider list. We do not support the amendments made to clause 6.6.2 of the draft REPS Code.

Consultation question 3

Do stakeholders support the clarification of record keeping requirements, such that obliged retailers must retain actual possession of all activity records for a period of five years following the completion of the activity (refer clause 4.3 of the draft REPS Code at Appendix 2)?

Please provide evidence in support of, or a preferred alternative to, that proposal.

The proposed change in the length of term of record keeping from 2035 (expiry of regulation) to 5 years from when the activity is conducted is a sensible change that Momentum supports.

The requirement for retailers to hold all of the activity records directly instead of ensuring legal control appears overly prescriptive. Mandating this function will incur more internal resources for retailers and limits their flexibility to outsource non-core functions. Momentum is of the understanding that this code change has been proposed due to concerns with the ongoing viability of some of the approved activity providers. An alternative more efficient solution would be to place a form of guarantee or credit assessment of all activity providers before they are placed on the ESCOSA approved activity service provider list.

Consultation question 4

Do stakeholders support the proposal to require the provision of information to customers at the commencement of the REPS activity (rather than at the time it is performed)? Please provide evidence in support of, or a preferred alternative to, that proposal.

Momentum supports this change as it will remove any ambiguity in the timing of when the information statement should be provided to customers. It will also ensure customers are aware of the full scope of the activities to be undertaken, at their property, before the activities commence.

Consultation question 5

Do stakeholders support the proposal that:

- The existence and amount of any co-payment must be clearly communicated to the customer at the time of booking a REPS activity; and
- The existence and amount of any co-payment must be clearly set out on the information statement?

Please provide evidence in support of, or a preferred alternative to, that proposal.

Momentum supports both of these code changes as customers have the right to be informed of any charges that they may incur prior to booking a REPS activity and any charges should be set out in the information statement.

Consultation question 6

Do stakeholders support the administrative amendments proposed to the Code? Please provide evidence in support of, or a preferred alternative to, that proposal.

Momentum supports the administrative changes proposed in the draft Code under Appendix 1 Table of Amendments.

Implementation Date of Code Changes

Momentum is very concerned that ESCOSA plans to release its final decision on the proposed Code changes in February 2022 and also make any new provisions effective from this same date. Some of the proposed changes may require retailer system enhancements, process and documentation changes and staff training if they are approved in February. Therefore, Momentum proposes that the effective date of these changes should at the very least be delayed until August 2022. This is the usual approach taken by other energy regulators as it allows retailers and activity providers' time to assess and implement Code changes.

Summary

It is somewhat disturbing that most of the proposed changes raised in the Consultation Paper continue to impose more stringent obligations on retailers and generally raise the cost to comply with the REPS. Momentum has previously raised our concerns with the high cost of the REPS compared to other jurisdictional energy efficiency schemes. Most of the proposed changes raised in this consultation paper would not exist or could be readily managed if this was a certificate based scheme. We strongly urge ESCOSA to recommend to the South Australian Department for Energy and Mining to restructure the REPS to a certificate based scheme.

Should you require any further information regarding this submission, please don't hesitate to contact me on 0478 401 097 or email randall.brown@momentum.com.au

Yours sincerely

[Signed]

Randall Brown
Regulatory Manager