



Economic Regulation Authority

Promoting fair prices, quality services and choice

INFORMATION

Electricity Networks Corporation (t/a Western Power)

CONTRAVENTION OF A TYPE 1 LICENCE OBLIGATION

The Economic Regulation Authority (Authority) has received a notification from Electricity Networks Corporation (Western Power) regarding a contravention of clause 7.7(2)(c) of the *Code of Conduct for the Supply of Electricity to Small Use Customers* (Code) that occurred on 20 October 2011. Clause 7.7(2)(c) of the Code is classified as a Type 1 (considered the most serious and therefore are immediately reportable) licence obligation. Type 1 compliance obligations are classified as having a major impact on the basis that:

- the consequences of a contravention would cause major damage, loss or disruption to customers; or
- the consequences of a contravention would endanger or threaten to endanger the safety or health of a person.

Details of the Type 1 licence contravention

On 4 November 2011, Western Power informed the Authority that a customer did not receive notification of a planned supply interruption because the notification was sent to the customer's postal address rather than the supply address, as required by clause 7.7(2)(c) of the Code. The postal address and contact number of the customer were out of date on Western Power's database and consequently the customer did not receive the notification.

Clause 7.7(2)(c) of the Code provides that, where a distributor has been informed by a retailer that a person residing at a customer's supply address requires life support equipment, the distributor must give the customer at least 3 days written notice of any planned interruptions to supply at the customer's supply address.

In a further letter, dated 18 November 2011 Western Power informed the Authority that, following a review of all 3,770 life support customers covering the period 1 February 2011 to 14 November 2011, a total of 66 life support customers had been sent notifications to their postal addresses rather than their supply addresses. Also, over the same period of time, a customer had experienced a supply interruption without a notification being sent to either their postal address or their supply address.

Western Power has taken actions to prevent the future recurrence of a contravention of clause 7.7(2)(c) of the Code, including:

- changes to the written mail-out notification process to ensure both the customer's supply address and postal address are used to advise of planned outages;
- strengthening existing safeguards to ensure personal or phone contact is made with life support customers before a planned outage commences; and

- continuing to cancel or postpone planned outages if the correct customer notification requirements have not been met, or if the outage will cause difficulties for the life support customer.

Authority's response to the contravention

The Authority is extremely concerned by the number of distinct contraventions (67 in total) of clause 7.7(2)(c) of the Code that have been disclosed in the letters of 9 November 2011 and 18 November 2011. Failing to provide advance notification of supply interruptions to life support supply addresses presents a risk to the health and wellbeing of those customers who may be in residence at the time of the interruption.

The Authority notes that this is the second contravention of clause 7.7 of the Code that has been reported in the past six months. The previous contravention, in May 2011, related to the obligation (under clause 7.7(1)(a) of the Code) to register supply addresses that have a customer who requires life support equipment in residence. The cause of the May 2011 contravention was the failure, following the introduction of the new outage management database, to implement a process to regularly check that life support customer supply addresses recorded in the database were up to date and correct.

Following the contravention in May 2011, the evidence indicates that Western Power did not examine any of the related Type 1 obligations under clause 7.7(2) of the Code, including the notification of planned outages to a life support customer's supply address. Had Western Power put in place robust processes to monitor its compliance with clause 7.7(2)(c) of the Code, it is reasonable to assume that the contraventions would have been detected and rectified much earlier than has been the case.

The Authority notes that this is the fourth reported contravention of a Type 1 licence obligation in the past six months (the previous notifications were in May 2011 and September 2011) and it follows the receipt of unsatisfactory reports on the performance audit of Western Power's distribution and transmission licences. The audit reports commented on problems with the compliance culture within Western Power and a reliance on external audits to identify contraventions. The 2011 audits were the third consecutive unsatisfactory audits of the licences since 2008. After considering the 2011 audit reports, the Authority has served a notice pursuant to section 32(1) (failure to comply with licence) of the *Electricity Industry Act 2004* on Western Power.

The Authority has written to Western Power expressing its dissatisfaction with the level of compliance with the licence. The Authority also requires Western Power to implement a robust compliance monitoring framework for all Type 1 obligations in Western Power's distribution licence by 16 December 2011. A report on the compliance monitoring framework is to be provided to the Authority by 23 December 2011.

The efficacy of the compliance monitoring framework for Type 1 licence obligations will also be assessed as part of the next performance audit of the distribution licence, which covers the 14 month period ending 30 June 2012. The report on the performance audit will be published after it has been approved by the Authority.

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