

2 August 2023

Gavin Fox
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Via email: marketperformance@aer.gov.au

Dear Mr Fox

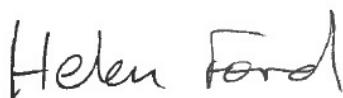
AER (Retail Law) Performance Reporting Procedures and Guidelines Issues paper

Thank you for the opportunity to comment on this consultation paper.


The comments contained in this submission reflect the feedback of the Energy & Water Ombudsman NSW (EWON), Energy & Water Ombudsman South Australia (EWOSA), and Energy & Water Ombudsman Queensland (EWOQ). We are the industry-based external dispute resolution schemes for the energy and water industries in New South Wales, South Australia, and Queensland. We have collectively reviewed the consultation paper and we have only responded to those questions that align with issues customers raise, or with each respective organisation's operations as they relate to the consultation paper.

If you require any further information regarding our submission, please contact Dr Rory Campbell, Manager Policy & Systemic Issues (EWON) on 02 8218 5266, Mr Antony Clarke, Policy and Research Officer (EWOSA) on 08 8216 1861, or Mr Jeremy Inglis, Principal Policy Officer (EWOQ) on 07 3087 9423.

Yours sincerely



**Deputy Ombudsman
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AER (Retail Law) Performance Reporting Procedures and Guidelines

Issues paper

Comprehensive performance reporting is essential for the effect and efficient operation of a competitive energy market. Performance reporting is an important tool that contributes to the regulator ensuring that retailers are meeting their consumer protection obligations. It also helps consumers to participate in the market with confidence, as well as providing real value and substance in the identification of trends and patterns over time.

The efficient and effective delivery of energy and compliance with customer protections in essential service provision is critical for customers, and failures can have extreme consequences.

Previous revisions have reflected evolution of the energy market such as more detailed information being available about the relationship between debt levels and disconnection, retailer credit collection activities, the management of hardship programs and the roll out of smart meters. The proposed amendments continue to reflect evolution of the energy market and will provide meaningful insight into gaps in consumer protections.

New potential indicators

2.1 Embedded Networks

Our schemes strongly support expanding the guideline to include the collection of data of residential and small business customers within embedded networks. As well as a gap in consumer protection for customers living in an embedded network, there is currently a significant lack of data in any form that helps to identify issues being faced by these customers and non-compliant behaviours by authorised retailers that may be occurring.

Increasing the visibility and monitoring trends in embedded networks will increase the accountability of authorised retailers that supply energy to embedded network customers, assist in identifying gaps in consumer protections and provide policy makers with more useful insights than has previously been available, which will contribute towards better regulation.

While acknowledging there will be additional costs at the outset for providers that do not already have a mechanism for performance reporting, we believe that the benefits are critical in working towards providing equal protections for customers that reside in embedded networks.

The inclusion of subcategories will bring consistency with information collected about on market customers, which will provide a more comprehensive understanding and enable more meaningful comparisons.

We strongly support the inclusions of subcategories that will provide detailed information about specific issues such as hardship and disconnection. We recommend that the AER consider subcategories that capture pricing, such as flexible pricing, or if customers receive a Feed-In Tariff.

We also encourage the inclusion of business codes, such as the use of ANZSIC Codes, for standardisation and improved visibility of the types of customers within embedded networks.

2.2 Life support customers

We strongly support collecting new indicators on life support customers. There are processes already in place that require retailers to take steps to identify a customer's account if a customer advises that a person residing at the premises requires life support equipment. This is usually by

applying a flag to the customer's account and ensuring that the customer is placed on the life support register with the distribution network. As this information is already embedded within retailers' systems, it would benefit the AER to collect this data.

2.3 Customers affected by family violence

We strongly support collecting new data on customers affected by family violence.

The AEMC determination on a recent rule change states *"Family violence is an area where the offending behaviours, impacts and risks evolve rapidly and protections can struggle to keep up, particularly where perpetrators find new ways to harm victims. It is important therefore for industry and regulators to have a continuing dialogue to recognise and respond to new risks as those risks emerge."*¹

The AEMC recommended a review of the family violence protections after a period of time that enables useful observation on how they are working in practice, however, did not define a time frame.

Currently the main mechanisms for monitoring compliance of the family violence protections are retailers self-reporting any breaches, and ombudsman reporting. Additional data sets that would be captured by the proposed new indicators would assist in the observation of how the rules are working in practice, forming a basis for a review, inform the AER's monitoring of energy retailers compliance with the new rules and would assist in assessing the effectiveness of the rules and refining any guidance.

Additional data would also assist policymakers in capturing granular data relating to family violence, including information such as increased reports of customers affected by family violence, debt levels and whether this may be attributable to economic factors.

Recording the number of customers no longer affected by family violence during a reporting period may provide some useful information, however customers affected by family violence are usually impacted for the long term. We recommend that guidance be provided to retailers to assist them in determining what would identify a customer as no longer being affected by family violence. For example, an affected customer may no longer have financial difficulties or require assistance from a hardship program but is likely to require additional safety precautions on their account for significantly longer.

Other indicators

We recommend that any new indicators to capture data on embedded networks be expanded to also include data relating to life support customers and, if provisions apply in the future, to family violence.

¹ AEMC Rule Determination – National Energy Retail Amendment (Protecting customers affected by family violence) rule 2022 – page 12

Refining current indicators

3.1 Clarifying definitions

We support clarifying definitions to increase consistency in reporting across retailers and would like to see further definition around key issues that will increase the accuracy of identification of issues and trends, like defining customers entering hardship.

3.3 Debt indicators

We support the proposed changes to debt indicators to enhance monitoring activity and provide more information and understanding about how retailers are supporting customers experiencing payment difficulties.

These changes would align with other jurisdictions to allow for more accurate comparisons and consistent reporting requirements for retailers.

3.3.1 0-day debt and 30, 60 and 90-day debt

We support formalising data that is currently provided voluntarily by retailers. As noted by the AER, the data provided more timely analysis of the effect of COVID-19 on the retail energy market. Continuing to collect more granular data will provide for earlier identification of issues and trends relating to debt and will assist in monitoring the effect of the evolving economic environment or future catastrophic events.

We recommend that the AER consider providing clear definitions of the age of debt and how to report to ensure that the data reflects customers that have debt that fall into multiple categories (i.e. cumulative debt and new debt).

3.3.2 Average debt measurements

We support the inclusion of average debt measurements as it adds to the suite of indicators and provides an additional useful comparison.

3.3.3 Alternative debt arrangements

We support the proposed refinements to specific definitions and indicators on alternative debt arrangements which will capture important new information that shows how retailers are assisting customers facing payment difficulties, such as promise to pay arrangements, payment extensions and deferrals.

Alternative debt arrangement models are also available to customers outside of their retailer relationship, through services such as Buy Now Pay Later schemes. A recent report released by the Public Interest Advocacy Centre (PIAC), *"Paying to pay: Using credit products to afford energy"*², highlighted that some alternative debt arrangements or credit products are either unregulated or lightly regulated and are easy to access, but involve fees and interest charges that add to the costs and sometimes debts for the increasing number of energy consumers that are using them.

An important issue for collecting data on alternative debt arrangements is that energy retailers are unlikely to be aware that their customers are using them to pay their bills. Indeed, the PIAC report found that alternative debt arrangements mask energy payment difficulty indicators from retailers and result in consumers forfeiting the consumer protections available in the energy market.

² Public Interest Advocacy Centre - June 2023, [Paying to pay: Using credit products to afford energy](#)

Therefore, to collect the indicators that the AER proposes, it may be necessary for energy retailers to ask customers, including those on payment plans and/or who have identified as being in hardship, whether they are utilising Buy Now Pay Later and other similar credit facilities to pay their bills.

3.3.4 Non-hardship debt

We support splitting electricity and gas indicators in S3.15, 3.17 and 3.18. Separating the indicators to align with residential hardship debt indicators will support better comparisons between hardship and non-hardship customers and will provide real insight to average debt levels and how customers are managing this in the evolving economic environment.

3.4 Tariff and meter types

We support expanding indicators to include all meter types and to collect data on tariffs.

This will provide additional insights as the smart meter rollout accelerates and will also assist in compliance. Information about tariffs would also provide insights about retailer behaviour regarding tariff assignment and contracts offered to customers and would also assist in compliance monitoring and encourage retailers to inform customers about tariff changes after having a smart meter installed.

3.6 Energy concessions

We strongly support refining this indicator to capture how many eligible customers receive concessions.

Retailers that operate in NSW, currently have additional obligations under the NSW Social Programs for Energy Code (the code) that *'as soon as practicable after an election is made by any person who is or may be an eligible customer, for the provision of energy supply, inform that person of the availability of the social programs for energy and provide an application form, if requested'*³.

Similarly, retailers that operate in Queensland under the Electricity Retailer Agreement between State of Queensland (Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships) and Retailers, have a general obligation to provide information to consumers about rebates and concessions. Before and on receipt of an application the retailer must *'comply with its obligations under the National Energy Retail Rules with respect to providing information to people about rebates, concessions or relief schemes'*⁴.

Retailers are required to record and report additional data relating to concessions, and this data could provide some insight into this indicator. While some data is already collected, presently clear data on eligibility and uptake of rebates is not available, however retailers should already have this information to enable them to comply with the provisions under the NSW and Queensland requirements.

Through our unique perspective of complaints data and community outreach, our schemes are aware that many customers who are eligible for rebates are not aware of assistance that is available to them and do not receive the rebates and we have raised these concerns with other government bodies.

³ NSW Social Programs for Energy Code, Section A4 Retailer obligations – all rebates and EAPA, A4.1.1

⁴ Electricity Retailer Agreement between State of Queensland (Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships) and Retailers, Section 5 Processing of Applications, 5.1

3.7 Call centre indicators

We support expanding current indicators for call centres to include online contacts to capture the increasing trends of contact via electronic methods.

3.8 Complaint indicators

We support refining and improving complaint categories to include more granular details.

More granular data would be consistent with our own complaint issues identified by dispute resolution staff and would allow for each ombudsman scheme to cross reference trends in the data with retailer complaints data.

Possible changes in complaint indicators could include:

- Splitting the complaints indicators for all categories, apart from meter contestability, into electricity and gas.
- Consolidating two of the meter contestability complaints indicators, S3.8 and S3.9, on meter installation.
- Creating sub-categories for billing complaints, including high bills, the billing process, estimated reads, tariffs, refund/credit and other.
- Adding a number of new complaints categories, such as existing connections, new connections, disconnections, credit action and payment difficulties

Frequency and granularity of data

4.1 Monthly data

We support the proposal that retailers provide monthly data for key indicators such as disconnections and life support and support that monthly data, reported quarterly would not change the reporting frequency, just the breakdown of data. It would also align with other jurisdictions and allow for more meaningful comparisons.

The provision of monthly data for indicators on debts, payment plans, hardship programs, credit collections, disconnections, as well as data on concessions would be very useful for analysing the trends or changes in how all customers are coping with their energy bills in the evolving economic environment and how well they are being handled by energy retailers.

4.2 Granularity of data

We support retail performance data being captured at a more granular level and support the AER's reasons for why this data would be beneficial. More in-depth data will provide a higher level of understanding of the energy market, including assisting in identifying gaps in consumer protections.

In particular, data relating to regional vs metropolitan would be useful to our schemes as it would assist with our community engagement planning, which contributes to the increased awareness of providers internal dispute resolution and availability of external dispute resolution.

Enquiries

Enquiries about this submission should be directed to Dr Rory Campbell, Manager Policy & Systemic Issues (EWON) on 02 8218 5266, Mr Antony Clarke, Policy and Research Officer (EWOSA) on 08 8216 1861, or Mr Jeremy Inglis, Principal Policy Officer (EWOQ) on 07 3087 9423.