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Dear Mr Fox,

RE: Retail Guidelines Review – Issues Paper

The South Australian Council of Social Service (SACOSS) is the peak body for the non-government, not-for-profit health and community services sector in South Australia, with a mission to advocate for the interests of people on low incomes or experiencing disadvantage across the state. We thank the Australian Energy Regulator (the AER) for the opportunity to comment on its *AER (Retail Law) Performance Reporting Procedures and Guideline Issues Paper*,¹ dated 10 July 2023 (the Issues Paper).

SACOSS strongly supports the AER's proposed amendments to the *Performance Reporting Procedures and Guidelines* (the Guidelines). We are greatly concerned about the devastating impacts of the increasing costs of electricity on low-income households and people experiencing disadvantage or in vulnerable circumstances in South Australia. We know low-income households are disproportionately affected by increasing energy costs, and are less able to reduce these costs through accessing roof-top solar or other technologies. We also know households in vulnerable circumstances risk being further disadvantaged as we progress through the energy transition. To ensure a just transition, it is vital the impacts of energy policy on these households is central to all decision-making. The importance of data to provide visibility of customer impacts and inform policy during the energy transformation cannot be overstated. Governments, market bodies, stakeholders, policy and decision-makers must have access to reliable, current and relevant data to ensure an equitable transition.

This submission supports the AER's potential new indicators, as well as the refinement of its current indicators under the Guideline. We also suggest additional indicators for distributors which we strongly consider are needed to properly understand the distributional cost

¹ AER, [\(Retail Law\) Performance Reporting Procedures and Guidelines Issues Paper](#), 10 July 2023

impacts of the changing energy system, as well as to inform tariff design, energy efficiency policies and the default market offer.

In summary, our submission **strongly supports the:**

- inclusion of new indicators under a separate Schedule in the Guideline requiring distributors to report on their obligations under the NECF, including obligations relating to:
 - Life support customers (Part 7 of the Retail Rules)
 - Disconnection (Part 6 of the Retail Rules)
 - Network tariffs
 - Grid consumption data (rule 171 of the Retail Rules)
- proposal to expand indicator s2.8, and to include additional indicators on tariffs and meter types if necessary
- AER actioning ACCC's recommendation 14 in the *Retail Electricity Pricing Inquiry Report* to ensure retailers are not obligated to reflect cost reflective tariffs and consumers retain a choice of tariff
- proposed new indicators for embedded networks as contained in Table 2.1 of the Issues Paper, which we agree will provide greater visibility of embedded customer numbers, access to competition, compliance functions, payment difficulty and affordability concerns
- proposed new indicators for life support customers as summarised in Table 2.2, as well as additional indicators covering distributors' life support obligations
- new family violence data requirements, as set out in Table 2.3, to better understand the impact of, and compliance with, the new family violence protections under the Retail Rules
- AER having regard to the family violence reporting requirements in place in Victoria, to ensure consistency across jurisdictions
- the introduction of additional new indicators, or subcategories, requiring information from retailers on the number and frequency of remote disconnections for non-payment (with the inclusion of corresponding definitions)
- proposals to adjust and refine indicators covering 0-day debt and 30, 60 and 90 day debt, average debt measurements and non-hardship debt, as well the collection of information on alternative debt arrangements, including broadening the definition of debt within the Guidelines to capture these arrangements
- introduction of small compensation claims scheme reporting requirements in the Guideline, covering the costs of the scheme, and other obligations on distributors as contained in Part 7 of the Retail Law
- proposal to capture data on the number of eligible customers receiving concessions, in addition to the number of customers entitled to receive concessions, with clarification on South Australian data where concessions are administered by the State Government
- retailers providing monthly data (reported quarterly) and also greater granularity of data, provided on a regional vs. metropolitan basis
- consolidation all the reporting requirements for both retailers and distributors within the one Guideline and reporting framework to enable clear assessments and cross referencing of the information provided.

We do not support the removal of complaint categories around metering contestability.

Potential New Indicators

Embedded Networks

SACOSS has consistently sought to highlight the systemic inequities affecting customers of embedded networks,² and were heavily engaged throughout the review processes of both the Australian Energy Market Commission (AEMC) and the AER.³

All of SACOSS' submissions have consistently supported customers of embedded networks having access to competition and the consumer protections afforded to on-grid customers under the National Energy Customer Framework (NECF); including protection from disconnection, payment support, hardship supports and internal and external dispute resolution options. As noted in the Issues Paper, this is particularly important for embedded network customers as they are often in vulnerable circumstances (elderly, renting, low-income), and are therefore at greater risk of experiencing payment difficulty and requiring support. We have also highlighted the lack of data on the growing number of customers in embedded networks, and the consequent lack of visibility and inability to monitor energy providers' compliance with protections.

We strongly support all of the proposed new indicators in Table 2.1 of the Issues Paper, which we agree will provide greater visibility of embedded customer numbers, access to competition, compliance functions, payment difficulty and affordability concerns.

Life Support Customers

SACOSS strongly supports the proposed new indicators for life support customers as summarised in Table 2.2.

Both retailers and distributors are required to comply with consumer protections for life support customers under the Retail Law and Part 7 Retail Rules. As outlined in further detail below, SACOSS is seeking the AER require distributors to report against new life support indicators covering distributors' life support obligations under Part 7. This will better enable the AER to ensure distributors are complying with their obligations under the Retail Rules

² SACOSS, [The Retail and Network Exemption Framework: Emerging Issues for Consumers – Report on the growing concern with consumer protection arrangements for exempt consumers](#), December 2015

³ SACOSS, [Submission to the AEMC on the Embedded Networks Rule Change Request Consultation](#), 23 June 2015, SACOSS, [Submission to the AEMC on the Draft Determination on the Embedded Networks Rule Change Proposal](#), 20 October 2015, SACOSS, [Joint submission to the AEMC on the Review of regulatory arrangements for embedded networks](#), 22 May 2017, SACOSS, [Report on Regulatory arrangements for embedded networks – snapshot of stakeholder positions](#), June 2017, SACOSS, [Submission to the AER on the exempt customer dispute resolution issues paper](#), 14 July 2014, SACOSS, [Joint submission to the Australian Energy Market Commission on the Draft Report on the Review of Regulatory Arrangements for Embedded Networks](#), 17 October 2017, SACOSS, [Submission to the AER on the Draft Retail exempt selling guideline Version 5](#), 19 December 2017, SACOSS, [Submission to the AER on the Review of Electricity Network Service Provider Registration Exemption Guideline](#), 10 January 2018

and will also support a comparative analysis between retailers and distributors of life support customer data.

Customers Affected by Family Violence

SACOSS strongly supports the new family violence data requirements, as set out in Table 2.3 of the Issues Paper, to better understand the impact of and compliance with the new family violence protections under the Retail Rules. We also support the AER looking to the monitoring and compliance regime established by the Essential Services Commission of Victoria to align reporting obligations across jurisdictions.

Additional new indicators

As outlined below, SACOSS is calling for the AER to introduce additional indicators relating to distributor's obligations under the Retail Laws and Rules, as well as granular data on grid energy consumption.

We are also calling for the AER to introduce additional indicators covering remote disconnection of customers for non-payment. The proposed acceleration of the smart meter roll-out may lead to retailers remotely disconnecting customers without any involvement of the distributor. It will be important to have visibility of the number of remote disconnections, as compared to distributor disconnections, in order to monitor whether there is increased frequency and number of disconnections occurring remotely, as compared to current and historical distributor disconnections. This data will also be useful should the knock to stay connected program be introduced more broadly, where the distributor is an essential part of that 'safety-net' process.

Refining Current Indicators

Clarifying definitions

SACOSS supports the AER clarifying definitions under the Guidelines where those indicators may be open to interpretation, as identified in the Issues Paper.

As flagged in the Issues Paper, we support greater clarity on the definitions of 'energy bill debt' and 'energy concession customers'. We would also support a revised definition of 'Government feed-in-tariff', as these schemes in South Australia are not funded government, but from all consumers through retail energy bills. We also support additional definitions to support new indicators, including 'solar electricity customer' for the purpose of distributor's consumption data.

Data validation

SACOSS supports the AER including an explicit note in the Guidelines requiring comparable totals for specific indicators.

Debt Indicators

The AER's data collection and analysis on customers experiencing payment difficulties and energy debt is absolutely crucial to understanding energy affordability and the experience of South Australian energy customers outside of hardship programs. SACOSS relies heavily on the AER's data to identify trends and impacts, and to inform our policy work and

submissions to governments and market bodies. This data is increasingly important in the context of rising energy costs and the energy transformation.

For example, data from the AER's Q3 2022-23 reporting on energy debt shows that more South Australian energy customers are in energy debt, and average debt levels of customers not in a hardship program are higher than the national average, raising questions around energy affordability and the early pro-active identification of hardship customers by retailers:

- the average energy debt of (non-hardship) residential customers in SA is \$1,227 – the highest in the NEM, and \$228 above the National average of \$999
- the number of customers repaying energy debt has increased from 22,331 in Q1 2022-23 to 27,561 in Q3 2022-23 (an increase of 23.4% in 6 months). This is slightly above the 22.4% increase in the number of customers repaying energy debt seen Nationally from Q1 2022-23 to Q3 2022-23 (increasing from 154,300 to 188,969)
- there have been two consecutive increases of the number of customers repaying debt over the last two quarters with 24,428 SA customers in Q2 2022-23 repaying energy debt (an increase of 9.4% from Q1 2022-23) and 27,561 in Q3 2022-23 (a further increase of 12.8% in three months).

Notably, average debt on entry into hardship programs in Q3 2022-23 was \$1,727 (highest after Tasmania), and \$471 above the national average of \$1,256. However, the average debt on entry to hardship programs in SA has reduced by \$610 from \$2,337 in the 12 months since Q3 2021-22, which may point to retailers being more proactive in providing hardship supports in this state, largely as a result of the AER's reporting and compliance focus.

Given the importance of this data-set, SACOSS strongly supports all of the AER's proposals to adjust and refine indicators covering 0-day debt and 30, 60 and 90 day debt, average debt measurements and non-hardship debt.

We also very strongly support the collection of information on alternative debt arrangements, including broadening the definition of debt within the Guidelines to capture these arrangements. This is an extremely important proposal by the AER, as SACOSS considers retailers may be in breach of their payment plan obligations under the Retail Law and Rules if customers are accessing 'buy now pay later' services to pay for energy, in circumstances where the retailer is legally obliged to offer a payment plan to all customers it believes may be experiencing payment difficulties. Energy is an essential service, it is essential to life, and these additional consumer protections are in place to ensure all customers are able to access energy on fair terms. No customer should be accessing buy now pay later schemes to pay for an energy bill, when protections have been established at law to ensure customers have a right to a flexible payment plan offered in accordance with their capacity to pay. We support the AER collecting additional information from retailers to shine a light on these alternative debt practices.

Tariff and Meter type

SACOSS strongly supports the collection of additional data on tariffs and meter types. The AER cites the following reasons for obtaining additional data, including:⁴

- understanding the extent to which retailers are ‘incentivising and encouraging’ their customers to take up cost reflective tariffs and smart meters
- cost reflective tariffs can reduce costs for consumers, enabling them to respond to price signals by shifting consumption
- the value in monitoring the extent to which retailers pass on the underlying network structure onto their customers, including inconsistencies between the underlying network tariff and the retail tariff arrangement, which may give rise to less cost-reflective structures for customers.

As previously submitted to the AEMC as part of its review of regulatory arrangements for smart meters,⁵ SACOSS remains concerned about the benefits of time of use tariffs for all households, and we are calling for additional retail data to better understand the actual impacts and inform policy development, including the AER’s policy of supporting time-of-use network tariffs on the basis of consumer benefit:

*‘SACOSS suggests the positive appeal of a retail ‘solar sponge’ tariff to end customers is a significant assumption, and none of the risks associated with tariff reform have been acknowledged, identified, assessed, monitored or properly costed as part of Oakley Greenwood’s analysis. This would require visibility and analysis of the solar sponge **retail tariffs** being charged to customers, the length of the ‘peak’ periods, visibility of customer’s energy consumption patterns, visibility and understanding of a customer’s family structure / caring responsibilities / health requirements / ability to change usage patterns / access smart appliances / energy efficient housing. In SACOSS’ view, it is not possible to determine whether households are in fact likely to experience increased energy bills / increased stress levels / worse health outcomes / energy rationing behaviour, from a theoretical analysis of customer benefit based on a network tariff structure. The network tariff structure is not necessarily reflected by the retailer in retail tariffs, and consumer behaviour will depend on the circumstances of the household. Some households may not respond, or may not be able to respond, to a price signal to shift energy use.’*

Importantly, South Australian smart meter customers on a default ToU network tariff have been automatically transferred to a time-of-use retail tariff by major retailers in this state. This has occurred without any prior notice or information about the peak, solar-sponge or shoulder times, making it impossible for customers to understand the need to change usage patterns. SACOSS considers there are substantial issues with this wholesale transfer of smart meter customers to ToU tariffs that could, and are likely to, lead to significant consumer detriment.

The AER’s Q3 2022-23 data shows:

⁴ AER, [\(Retail Law\) Performance Reporting Procedures and Guidelines Issues Paper](#), 10 July 2023, p. 11

⁵ SACOSS, [Submission to the AEMC on the Regulatory Framework for Metering Services](#), 9 February 2023, p. 11

- In total, **the percentage of smart meter customers** in SA on a **time of use** or flexible tariff, with an underlying distributor based time of use or flexible network tariff, has increased from **52.3%** 12 months ago, **to 79.9%** in Q3 2022-23
 - The percentage of AGL smart meter customers on a ToU has increased from **53%** 12 months ago, **to 83.2%** in Q3 2022-23
 - The percentage of Origin smart meter customers on a ToU has increased from **58.6%** 12 months ago, **to 99.5%** in Q3 2022-23
 - The percentage of Alinta Energy smart meter customers on a ToU has increased from **13.4%** 12 months ago, **to 92.4%** in Q3 2022-23
 - Simply Energy has remained steady at 47.6% of customers 12 months ago to 51.1% of customers in Q3 2022-23.

This data clearly demonstrates the continued move by retailers to shift smart meter customers to a ToU tariff in South Australia. The lack of advanced notification or information about the increased peak periods and peak tariffs (and the consequent need to change usage patterns) risks leading to bill shock and increased electricity costs. Even if aware, many customers are unable to shift usage patterns and face increased tariffs during peak periods (14 hours a day). SACOSS understands South Australian ToU customers with one particular retailer are facing peak tariffs of 60 cents per kWh, for a 14-hour period, as of 1 July 2023. There is no ability for these customers to choose an alternative contract.

The collection of data from retailers on tariffs and smart meters is essential to better understanding the impact of promoting a cost reflective network tariff policy, and the consequences at a retail level. We support the AER's proposal to expand indicator s2.8 and include additional indicators if necessary. We also take this opportunity to call for the AER to implement the ACCC's Recommendation 14 of the *Retail Electricity Pricing Inquiry Report* which states (SACOSS' emphasis):⁶

Retailers should not be obligated to reflect the cost-reflective network tariff structure in their customers' retail tariffs, but should be free to innovate in the packaging of the network tariff as part of their retail offer.

Given the potential for negative bill shock outcomes from any transition to cost-reflective network tariffs should retailers pass these network tariffs through to customers, governments should legislate to ensure transitional assistance is provided for residential and small business customers. This assistance should focus on maximising the benefits, and reducing the transitional risks, of the move to cost-reflective pricing structures. This includes:

- ***a compulsory 'data sampling period' for consumers following installation of a smart meter***
- ***a requirement for retailers to provide a retail offer using a flat rate structure***
- ***additional targeted assistance for vulnerable consumers.***

⁶ ACCC, [Retail Electricity Pricing Inquiry Report](#), June 2018, p. xix

Prepayment Meters

We support the proposal by the AER to capture alternative meter types under a separate category, including card-operated meters. SACOSS remains strongly opposed to the use of prepayment meters or other meters with a similar function that operate under a different name. We refer the AER to our previous submissions to the South Australian government and the South Australian Essential Services Commission opposing mandatory prepayment for residents in remote Aboriginal communities in South Australia, introduced in July 2022, including our submissions on reporting requirements.⁷

Energy Concessions

SACOSS strongly supports the AER's proposal to capture data on the number of eligible customers receiving concessions, in addition to the number of customers entitled to receive concessions. We are seeking the AER clarify how this data will be collected in South Australia, given the energy concession is administered by the State Government Department for Human Services, and not the retailer.

Given the definition of 'energy concessions customers' under the Guideline means '*a residential customer that is recorded by the retailer as being entitled to receive an energy concession, where the concession is administered or delivered by the retailer*', will South Australian energy concessions customers be captured by the AER's indicators?

Call Centre Indicators

We support this proposal to include online chat within call centre indicators.

Complaint indicators

We support this proposal to refine and improve complaint categories in the revised Guidelines. We have heard anecdotal evidence from financial counsellors and consumers of concerns around estimated meter reads being applied, even for smart meter customers.

Frequency and Granularity of Data

SACOSS supports retailers providing monthly data (reported quarterly) and also greater granularity of data, provided on a regional vs. metropolitan basis. We know the experience of regional customers in South Australia can differ greatly from customers based in metropolitan Adelaide, and it would be useful to have data to inform policy to redress these imbalances.

As outlined in further detail below, we are calling for the AER to impose reporting requirements on distributors, with some of these indicators including information on energy grid consumption data based on regions. Energy consumption is an important part of the energy affordability and energy efficiency equation. Households in regional areas may also face greater impacts from climate extremes, and more granular data could be used to

⁷ SACOSS, [Submission to ESCOSA on the Cowell Electric Supply Pty Ltd licence amendment, proposed prepayment by default consumer protections](#), 3 June 2022, and SACOSS, [Submission to the SA Department for Energy and Mining on proposed amendments to customer payment on the Remote Area Energy Supply Scheme](#), September 2021

inform policy around increased supports or the acceleration of efficiency measures in certain geographical areas.

Consolidation of Indicators

Complaint Categories

SACOSS supports PIAC's submission to the AER on retaining the level of granularity for complaints about metering contestability. The AEMC's smart meter review and revised framework have not yet come into operation, and removal of these indicators is premature. There is a greater need for more information on the experience of customers in the coming years with the acceleration of the smart meter roll-out, and all of the potential challenges customers may encounter on a larger scale.

Indicators that could be removed

SACOSS does not have any suggestions for indicators that may be removed.

Indicators for Distributors

AER is seeking stakeholder feedback on whether information from distributors on service standards and GSL Schemes could be collected under the revised Guidelines rather than through voluntary data reporting, for inclusion in the Annual Performance Report. SACOSS supports this proposal, but we are also urging the AER to include additional, new reporting requirements for distributors under the Guideline.

The Regulatory Information Notice (RIN) process that distributors complete annually includes information that would be of value to stakeholders and policy makers, but this data is opaque, difficult to interpret and does not require a level of granularity which would improve visibility of customer impacts, including impacts on equitable cost distribution and energy affordability. For example, both energy delivered (consumption) and customer numbers are reported in RIN data, allowing for the calculation of average annual usage of customers, but the AER doesn't require RIN data on solar versus non-solar consumption, or different tariff types or geographic locations. We understand this data is used internally by distributors, but not publicly reported.

As stated in SACOSS' submission to the AEMC on the AER's consumption benchmarks rule change proposal,⁸ energy consumption information (from distributors) provided on a distributional basis, can provide essential insights into current and future network cost distribution, energy affordability analysis, tariff design (including export tariff design), default market offer determinations and energy efficiency measures, and we are therefore urging the AER to include distributor reporting requirements in the Guideline.

Under section 204 of the Retail Law, the AER's functions and powers include monitoring and reporting on compliance by 'regulated entities' with the Retail Law and Retail Rules. Section 274 of the Retail Law⁹ provides for obligations of 'regulated entities' to provide information and data about compliance. Section 282 provides for obligations of 'regulated entities' to

⁸ SACOSS, [Submission to the AEMC on the National Energy Retail Amendment \(Electricity Consumption Benchmarks\) Rule 2023 Consultation Paper](#), dated 20 July 2023

⁹ [National Energy Retail Law](#), Division 2, section 282 and 286

provide information and data about performance, and section 286 provides for the making of the Guidelines to provide guidance for 'regulated entities' and the manner and form in which 'regulated entities' must submit information.

'Regulated entity' is defined in section 2 of the Retail Law to mean:

(a) a retailer; or

(b) a distributor; or

(c) any other person identified in the Rules as a regulated entity.

Clearly then, the AER's powers under the Retail Law extend to requiring distributors (as well as retailers) to provide information about compliance and performance, in the manner and form as set out in the Guidelines.

It is also worth noting the AER's current powers and obligations relating to consumption benchmarks under the NECF allow for the AER to obtain consumption information from distributors 'in such manner and form as may be requested'. Under Rule 171, distributors must provide that information to the AER (and if required report on that obligation in accordance with the *Compliance Procedures and Guidelines*).¹⁰

SACOSS is strongly submitting the AER include new indicators under the Guideline requiring distributors to report on their obligations under the NECF, including obligations relating to:

- Life support customers (Part 7 of the Retail Rules)
- Disconnection (Part 6 of the Retail Rules)
- Network tariffs
- Grid consumption data (rule 171 of the Retail Rules)

Importantly, we are calling for additional distributor indicators covering grid consumption of energy, with subcategories covering solar customer grid consumption and non-solar grid consumption.

This data is essential to understanding the distribution of network costs (transmission and distribution) for both electricity and gas across customer groups. We know those customers who are unable to access Consumer Energy Resources risk disproportionately shouldering the cost burden of increasing network investment, and we need data to inform future policy development to protect those customers. Grid consumption based on meter and tariff type may also contribute to a better understanding of customer's energy consumption behaviour and energy efficiency policy development, and provide an essential input for default market offer determinations on 'average annual usage'¹¹ for flat rate tariff customers and time-of-use tariff customers.

¹⁰ National Energy Retail Law, Section 281(2)(e)

¹¹ The AER has now acknowledged it is 'revisiting' its methodology given the potential impact of the high penetration of roof-top solar on average grid consumption levels (which is particularly relevant in South Australia).

We remain convinced that consumption data obtained from distributors to inform consumers, policy makers and governments is an essential component of the information needed to ensure a just energy transition.

SACOSS strongly supports the AER consolidating *all* the reporting requirements for both retailers and distributors within the one Guideline and reporting framework to enable clear assessments and cross referencing of the information provided.

Distributor service standards and GSL Schemes

SACOSS supports the collection of information from distributors on a quarterly basis.

Small compensation claims regime

SACOSS understands SA Power Networks is very keen for the South Australian Government to introduce a small compensation claims scheme. SACOSS is opposed to SA Power Networks including projected costs of the Scheme in its 2025-203 regulatory proposal, and considers (if introduced) all costs should be funded by government or (at the very least) recovered from consumers on an ex-post funding basis.

We therefore strongly support the introduction of small compensation claims scheme reporting requirements for SA Power Networks to be included in the Guideline. These reporting requirements should cover the costs of the scheme, and other obligations on distributors as contained in Part 7 of the Retail Law,¹² including incidents, matters and repeat claimants.

If you have any questions in relation to this submission, please contact Georgina Morris at georgina@sacoss.org.au or 8305 4214.

Yours sincerely,



Dr Rebecca Tooher

Director of Policy and Advocacy
South Australian Council of Social Service

¹² [National Energy Retail Law](#), Part 7 – small compensation claims regime