7 August 2023

Mr Gavin Fox

General Manager, Market Performance Branch

Australian Energy Regulator

GPO Box 3131

Canberra ACT 2601

Lodged by email: marketperformance@aer.gov.au

Dear Gavin,

RE: AER (Retail Law) Performance Reporting Procedures and Guidelines issues paper

Shell Energy Australia Pty Ltd (Shell Energy) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) review into the arrangements for failed retailers' electricity and gas contracts Direction Paper.

About Shell Energy in Australia

Shell Energy is Shell's renewables and energy solutions business in Australia, helping its customers to decarbonise and reduce their environmental footprint.

Shell Energy delivers business energy solutions and innovation across a portfolio of electricity, gas, environmental products and energy productivity for commercial and industrial customers, while our residential energy retailing business Powershop, acquired in 2022, serves households and small business customers in Australia.

As the second largest electricity provider to commercial and industrial businesses in Australia[1], Shell Energy offers integrated solutions and market-leading[2] customer satisfaction, built on industry expertise and personalised relationships. The company's generation assets include 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, supporting the transition to renewables, and the 120 megawatt Gangarri solar energy development in Queensland.

Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy, while Powershop Australia Pty Ltd trades as Powershop. Further information about Shell Energy and our operations can be found on our website here.

General comments

Shell Energy thanks the Australian Energy Regulator (AER) for issuing their AER (Retail Law) Performance Reporting Procedures and Guidelines issues paper (the Paper) and the opportunity to provide feedback to the proposed changes to the Performance Reporting Procedures and Guidelines (the Guideline).

Shell Energy supports the intent of the Paper, specifically seeking to refine and consolidate certain performance indicators for ease of completion by industry. However, Shell Energy is cautious on other changes that the AER proposes, particularly adding more indicators or increases to frequency or granularity. Changes such as these must be cognisant of any material or significant alterations required of a retailer to their systems, processes as well as costs and resources to comply with the Guideline.

All data requests as well as changing or increasing the number of required reporting indicators imposes additional costs on retailers to develop systems, processes and training to accommodate the new requirements. Ultimately increasing the regulatory obligations of retailers comes at a cost to customers, at a time when cost pressures are particularly high across the industry. Shell Energy is concerned with the issue of changing performance indicators

[1] By load, based on Shell Energy analysis of publicly available data.

[2] Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2021.

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under the Guideline while also being subject to many and varied information requests on similar industry items from other regulators. These include but are not limited to the Essential Services Commission Victoria (ESC) and the Australian Competition Consumer Commission (ACCC). Shell Energy would encourage the AER to consult with the ACCC and ESC and review opportunities to consolidate data request content where there is duplicate requests or similar data as required under the Guideline.

1. Implementation timing

Question 1: Do you have any comments on the proposed implementation time frame of 6 months and commencement date of 1 July 2024 and what steps the AER can take to minimise the costs of reporting under the revised Guidelines?

Shell Energy supports a start date to any finalised indicators of 1 July 2025 (not 1 July 2024); a date that falls into line with regulatory and financial years. Retailers must be provided a sufficient timeframe to manage this regulatory change. Energy retailers are still grappling with the implementation of both the Consumer Data Right and Better Bills, both of which are still significant projects for all of 2023 as well as into next year when post implementation reviews are performed by the business.

The implementation timeline of an updated Guideline will also be impacted by the requirement for draft guidance notes on the changes, which would need to be consulted upon once the final decision on the Guideline is delivered by the end of 2023.

This is particularly important given the lack of clarity associated with some of the proposed metrics. Shell Energy encourages the AER to allow time for a targeted engagement with stakeholders to provide the opportunity to consult on these definitions, ensuring that there is consistency in the technical interpretation of indicators.

2. New Potential Indicators

Question 2: What is your view on the indicators we have identified to potentially add to our suite of indicators? Are there any additional benefits or potentially unforeseen costs of adding these indicators and are there other indicators we should consider adding?

Embedded Networks – Shell Energy has expertise in retailing to embedded network at the parent meter. We have the following observations on the potential for new metrics relating to embedded networks:

Contracts

There are significant system and process changes to be implemented to break down customer types into small customer, small business or a large customer, for these indicators. We have questions on the workability of defining these groups in an embedded network setting given the uncertainty around metering visibility and any bespoke contracts that would compromise disclosure. Shell Energy, as the parent meter retailer, does not have access to information pertaining to the 'child/downstream' customer engagement or contractual arrangements made within the embedded network either by the parent or other retailers.

There is no oversight of customers in embedded networks or the type of contracts they are signed to. Shell Energy only have visibility of customers for which they are the Financially Responsible Market Participant due to the manner in which the parent meter entity is contracted, market limitations and privacy.

Meters

Data can only be provided on how many parent/ gate meters Shell Energy has contracted as well as meter numbers. We do not have transparency to the 'child customers' downstream of the parent customer meter.

Further investigation would also be required to advise if a 100% success rate of confirming the number of parent or gate meters being supplied by a retailer can be achieved.

Subcategories

In the case of child metered customers that have not transferred to an authorised retailer (i.e. not 'on market'), the exempt seller has a direct relationship with the customer and has ability to access information regarding the customer's contractual, credit and concession arrangements. This is unfeasible for the parent meter retailer.

In relation to any on market customers where the customer is contracted to an authorised retailer, there may be significant work in linking customer information across classifications to credit data and vice versa.

At this time Shell Energy advises against creating metrics that have a speculative, uncertain value or introduce complexities in data extraction, and we ask that the AER prudently limit the need for reporting indicators based on imperatives and easily accessible data.

Life Support Customers – Shell Energy is not opposed to reporting the total number of registered life support customers and can also report the number of registered and deregistered life support customers during the reporting period.

Customers affected by Family Violence – Shell Energy emphasise that a strong purpose of the family violence provisions is to provide bespoke support on a case-by-case basis. Not all family violence customers require payment plans or assistance. In contrast, the AER are seeking to implement objective performance indicators that seek a 'black and white' response to each customer data piece that by the very nature of addressing family violence, is subjective and highly sensitive.

Shell Energy question the value-add of categorising a customer "as no longer affected by family violence"[3] or its appropriateness in application. We advise the AER to remove this proposed indicator. Specific concerns include:

- Which party makes the decision on whether a person is no longer affected by family violence. Such a decision does not carry a standard or consistent form of agreement like a contract typically would. If this indicator is customer reliant, then the indicator will never be 100% accurate unless there is a guarantee each customer impacted did report back to their retailer that they are no longer impacted by family violence.
- The purpose of this proposed indicator is not clear. If it is meant to analyse how effective a retailer is in making such a decision, then it is a flawed request. Creating such an indicator would force upon retailers a false sense of a black and white standard as to how to close a family violence case.
- Performance indicators by their nature are designed to lift or raise performance. This proposed indicator creates a contradiction as it potentially seeks to punish a retailer via a breach of this indicator if it does not look to have any customers moved to 'no longer affected'. How would compliance be accomplished when each case has it own attributes?
- This indicator sets the wrong priorities. Such a performance indicator reduces the motive to achieve best practice by setting a minimum standard. Shell Energy would prefer to focus on the number of customers who 'are affected by family violence' to ensure best practice of capturing these customers continues.

Shell Energy require further detail for the 'total number of customers who identify as affected by family violence, broken down by subcategories such as those on a hardship program or payment plan.'[4] indicator. Specifically:

- What would be the purpose of actually categorising these customers when the principal requirement is to ensure these customers receive these protections generally?
- What granularity is there in the subcategories?
- There needs to be clear definition provided when metrics overlap (i.e. if reporting a family violence customer on a payment plan, would we also report them in total payment plans).

3. Refining Current Indicators

Question 3: What are your views on the proposed changes to current indicators?

Question 4: Are there any other indicators that would benefit from being revised?

Clarifying Definitions – Shell Energy would like the opportunity to further discuss any potential definition changes. We see the importance of remaining focused on ensuring that any change does not increase cost or burden for retailers.

Data Validation – Shell Energy fully support the Paper's position on data validation. Data validation should occur when:

- the sum for one metric equals the total of a combination of metrics; or
- when one metric must be higher or lower than another metric.

[3] Australian Energy Regulator, AER (Retail Law) Performance Reporting Procedures and Guidelines issues paper, page 7

[4] Ibid

Shell Energy's mass market retail business (Powershop) currently completes this validation. For example, with hardship:

'End Customer = Start Customers + New Customer – Removed Customers'.

Associated commencing and exiting metrics then must add up to the total that Powershop report for New and Removed customers.

Shell Energy believes that the current format of the performance reporting submission file makes data validation more complex and increases the risk of incorrect data input enhanced. By following the ESC's lead by moving to a flat file format, retailers can import data straight into the file, having already completed its validation, thus reducing the likelihood of manual data input error.

Customers experiencing payment difficulties and Hardship Indicators –

Clarifying Definitions – The AER's review of performance reporting metrics provides the opportunity for consistency between performance reporting frameworks (ESC) and clarity between metrics. As identified by the AER, the current payment difficulties metrics allow retailers a degree of interpretation.

Additionally, the current definitions allow for a customer to be counted multiple times. For example, a customer with 'energy bill debt' (counted in S3.15), may also be a customer on a 'payment plan' (S.3.22 & S3.16), and may also be counted as a Centrepay customer (counted S3.20).

In our view, the proposed addition of new metrics and more complex metrics, should ensure that each proposed metric is mutually exclusive. This ensures that a customer is not 'double counted' where it may not be appropriate to do so.

The ESC's updated performance reporting guidelines provides clarity to retailers on this. For example, the ESC metric 'other residential/ small business accounts with arrears' (AS120, AS121), akin to AER's 'customers repaying an energy bill debt', is clear that a 'other' customer is one that is not receiving standard/ tailored assistance (akin to payment plan or hardship) or a customer with a deferred payment (akin to 'alternative debt arrangements'). Following this standard would allow for consistency between regulatory frameworks and in Powershop's view a better view of retailer performance.

Powershop also seek clarity for when former customers should, and should not, be counted within performance reporting metrics. For example, 'customers repaying an energy bill debt' is explicitly clear that a former customer is excluded from this metric, however, the same clarity is not provided for 'payment plan' customers.

0-day debt and 30, 60 and 90-day debt – Powershop support this however, to be consistent with our point above, there needs to be strong clarity on what it is retailers will be reporting, whether these numbers are independent or mutually exclusive. For example, if a customer has a bill with 1-29 day debt and a bill with 90+ day debt, are they reported once (at a customer level) or twice (at a bill level).

Powershop strongly support a metric that is mutually exclusive (reported at a customer level). For the above example this customer would be reported once, in the 90+ day debt metric. This definition would benefit from a definition of what 'debt' is for the purpose of this metric. For clarity:

- if a customer has 90+ day debt, then should their 'average debt' include all 'debt' for the customer, or only 'debt' outstanding for greater than 90 days; and
- should 'debt' only include bills that are past the due date or should 'debt' also include bills that are no overdue.

The definitions would need to remain consistent for 0-day, 30-day and 60-day debt. Additionally, the AER would need to provide clarity on where S3.19 (reporting on 12 to 24 month, and 24-month + debt – within specific dollar brackets) would fit into these definitions. To reiterate, a customer that is in hardship, on a payment plan or has deferred payment should not be included within this metric.

To highlight the risk with double counting, if Powershop was to report at an invoice level, then as a monthly billing retailer, we would have customers with debts in each of the aged debt brackets. This could potentially lead to incorrect or indeterminable conclusions about the volume of customers with debt.

Average debt measurements – In alignment with the above indicator the AER should clarify what 'debt' is included within 'average debt' metrics once these are split out (an extension of 3.3.1).

Powershop support the adjustment to average debt metrics however, this should be looked at holistically. Powershop believes that 'payment plan' and 'alternative debt arrangements' customers should be excluded from 'customers repaying a debt', acknowledging there would be potential benefit in the AER understanding separately the 'average debt' within these customer cohorts.

Reporting average fortnightly payment amount (S3.16) is not an issue, however, Powershop questions the relevance of this metric. The amount that a customer is paying per fortnight does not provide qualitative feedback on the 'quality' of a customer's payment plan, therefore the information collected is largely redundant in our view.

***Alternative debt arrangements* –** Powershop is assuming the AER is aiming to include deferred debt. If this is the case, then any metric and/or definition should specifically only speak about deferred debt. Using the term 'alternative debt arrangements' within the definition could lead to confusion, unless there are other types of 'debt arrangements' that the AER is looking to include. In this case, this would either need to be included within the definition, or within its own metric.

Non-hardship debt – Powershop support the split of this indicator between electricity and gas for greater consistency in information.

Tariff and Meter Types

Shell Energy is not opposed to the idea of additional indicators relating to tariffs. However, Shell Energy considers that the array of tariffs on offer to a customer will likely become more varied as the energy transition progresses. This shows the need for flexibility within the revised guidelines.

Energy Concessions – Powershop understand the reasoning for seeking to understand eligibility of concessions when compared to the receipt of that concession, given 40% of eligible customers do not receive concessions. However, reporting on this metric potentially does not provide the AER the answers they seek in relation to this gap. If Powershop have an eligible customer, they are going to receive the concession on their bills. The issue is customers that do not apply or do not reapply for the concession. These are cases that a retailer has no visibility over this because the customer will not be counted as either an eligible customer or a customer receiving a concession.

4. Frequency and Granularity of Data

Question 5: What are your views on providing more frequent data for selected indicators?

Question 6: What are your views on providing more granular data for selected indicators?

The current performance reporting template is difficult to complete. With the addition of monthly data and more granular data, retaining the current performance reporting template would be unworkable for retailers. The AER should consider adopting a flat-file approach, similar to the ESC updated performance reporting template.

Conclusion

Shell Energy would strongly encourage the AER to undertake a separate consultation with Shell Energy and Powershop (or industry) to discuss metric definitions with retailer subject matter experts, a similar process to that which the ESC undertook in its revision of performance reporting metrics.

If you have any questions in relation to this submission, please do not hesitate to contact Alan Love at alan.love@powershop.com.au.

Yours sincerely

Libby Hawker
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