



23 January 2017

Ms Sarah Proudfoot  
General Manager, Retail Markets  
Australian Energy Regulator  
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Melbourne VIC 3001  
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Dear Ms Proudfoot

**Re: AER Compliance Procedures and Guidelines**

Thank you for the opportunity to comment on the draft amendments to the AER Compliance Procedures and Guidelines.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers.

Our views are drawn from the complaints we receive and deal with. For ease of reference, we have adopted the same numbering as the notice of draft instrument in responding to questions 4, 8 and 11.

## Our responses to the consultation questions

4. Should the new retailer notice obligations (specifically rules 59A) be made reportable under the reporting framework? If so, is the obligation to report on a six month basis appropriate?

The retailer led rollout of digital meters in NSW commenced in 2016. This was the first time that electricity consumers in NSW were being provided with an energy offer that is bundled with metering services. The initial offers made by retailers have targeted the 146,000 customers eligible for the NSW Solar Bonus Scheme, prior to the scheme ending in December 2016.

Whilst this initial rollout of digital meters is not governed by the metering rule change, some retailers offering metering services to Solar Bonus Scheme customers have chosen an opt-out process for the installation of digital meters.

Based on EWON's complaint experience to date, the opt-out process has resulted in some customers who did not want a new meter receiving one:

- Some customers who tried to contact their retailer to opt-out of the meter installation, received no response or acknowledgement of this decision from the retailer.
- Some customers received no notice prior to the installation of a new digital meter at their property.

Customers who were receiving the NSW Solar Bonus Scheme had a strong incentive to respond to a retailer's offer for a new digital metering installation, as these customers have a financial incentive to change from a gross to a net meter. Once the new metering rule change comes into force, customers will have less incentive to respond to such offers, or to participate in the rollout of digital meters. On this basis, EWON believes that the new retailer notice obligations (specifically rules 59A) should be made reportable under the reporting framework.

**Case Study: *Difficulty in opting out***

The customer received a first letter from his retailer offering a free digital meter. This seemed attractive but when he rang the retailer it had very little information to assist him in making his decision. He was especially concerned that it could not tell him specific information regarding tariffs that would apply if he took up the offer. He then received a second letter advising that the installation of the digital meter would proceed unless he opted out. He tried to ring his retailer but experienced long delays and could not get through. He rang EWON seeking assistance in contacting his retailer.

The matter was referred to the retailer at a higher level with the customer's agreement, knowing he could re-contact EWON if necessary.

**Case Study: *Lack of notification***

Technicians arrived at the customer's property to change his meter. He said they were in an unmarked van and had no retailer identification. They could not explain why he had not been notified about the meter replacement, and could not provide any information about the consequences of the change in meter. He refused permission for the meter change and contacted EWON.

The matter was referred to the retailer at a higher level with the customer's agreement, knowing he could re-contact EWON if necessary

8. What, if any, are the implications of the AER removing the obligation on regulated businesses to report on rules 55-56B, 58-59 of the NERR?

EWON strongly opposes the removal of reporting obligations for breaches of 58-59 of the NERR and would advocate instead for a half yearly reporting requirement on these issues.

We note that the AER has not identified any underlying issues arising from these provisions and considers that any such issues can be effectively monitored via other mechanisms without imposing reporting obligations on businesses.

As noted in our annual report for 2015/2016, EWON continues to receive a significant number of complaints relating to the issues of transfer delay and site ownership. Our complaint work shows that when retailers breach these rules, particularly rule 59 'Notice to small customers where transfer delayed', it may result in significant detriment to the customer, including disconnection.

EWON also receives high numbers of complaints from customers who have had their energy supply disconnected. However, as EWON investigations necessarily primarily focus on resolving the customer's central complaint about disconnection, we may not always identify whether or not the other retailer has breached its obligations to notify the customer of a failed transfer. For this reason, the self-reporting of such breaches should remain as an important step in the ongoing monitoring of this issue.

**Case Study:** *A move-in customer was disconnected by the retailer that was financially responsible for the site after the customer's preferred retailer failed to notify him that a number of transfer requests had been cancelled.*

The customer moved into new premises and opened a gas account with his preferred retailer. The customer did not receive any invoices or notices from that retailer, and two months later the gas supply to the customer's property was disconnected. The customer then contacted EWON.

EWON obtained confirmation from the distributor that the retailer contacted by the customer did attempt to obtain the billing rights for the property. The distributor also advised EWON that three separate transfer requests were made with the distributor, but all three requests were cancelled. No notification of the failed transfer requests was sent to the customer.

The complaint was resolved after the customer's preferred retailer successfully transferred the site and reconnected the gas supply to the property.

11. Are there any issues with the removal of the obligation on businesses to report on provisions under Part 2, Division 6 of the NERL?

Ensuring the accessibility of retailer hardship policies is an important step in the protection of vulnerable energy consumers. EWON believes that it is crucial that a retailer's hardship policy should be easily found on the retailer's website, and that it should take a customer no more than two to three clicks to navigate from the website's front page to this financial hardship information. However, EWON would support the removal of the reporting obligations relating to customer hardship provisions in Part 2, Division 6 of the NERL, if the AER implements a regular, active monitoring program verifying that retailers are publishing their approved customer hardship policy online, in an easily accessible approach.

EWON also believes that the AER's monitoring of this crucial consumer protection should continue to be reported at least annually, for example, through surveys conducted prior to the AER National Energy Retail Law annual compliance report.

- AEMC draft rule determination: *Improving the accuracy of customer transfers*

EWON supports the proposed rule changes currently under consideration by the AEMC relating to the rectification of transfers made in error.

Our two primary concerns are related to disconnections resulting from erroneous transfers and the mechanisms for rectifying such transfers. Based on our complaint data, it seems that after a transfer in error has occurred, the incorrectly transferred site it is often retained by the retailer who initiated the erroneous transfer as a new occupant supply account. This then can result in disconnection as some customers ignore notices that originate from a retailer that they have never heard of, or sought supply from.

Once the final rule has been determined, EWON would advocate for:

- any disconnections flowing from a transfer in error to be included within the immediate reports; and
- any other future breaches with regard to the proposed rule changes for rectifying such transfers being reportable on a quarterly basis.

If you would like to discuss this matter further, please contact me or Rory Campbell, Manager Policy & Research on (02) 8218 5266.

Yours sincerely



**Janine Young**  
**Ombudsman**  
**Energy & Water Ombudsman NSW**