

11 August 2023

Gavin Fox  
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Australian Energy Regulator  
By email: [marketperformance@aer.gov.au](mailto:marketperformance@aer.gov.au)

### **Submission to the AER (Retail Law) Performance Reporting Procedures and Guidelines Issues Paper**

Dear Gavin,

Energy Consumers Australia welcomes the opportunity to comment on the Australian Energy Regulator's (AER) review of Performance Reporting Procedures and Guidelines.

Access to timely, comprehensive and accurate data is fundamental to identifying and understanding current and emerging issues for consumers in the retail energy market. The AER's performance reporting data is an essential data source for Energy Consumers Australia. Events like the COVID-19 pandemic and the recent volatility in the energy market have highlighted the importance of having access to a data source that can provide immediate insights into how retailers are responding to such events and the impacts of their responses on consumers.

As we transition to an energy system with increased Consumer Energy Resources, access to reliable and trustworthy data is vital to identify potential risks and solutions.

We strongly support the AER looking to expand the kinds of data it collects as part of its performance report. Increased transparency around the retail energy market will help enhance our evidence-based advocacy on behalf of energy consumers.

We support the changes outlined by the AER in the Issues Paper, particularly:

- Adding new indicators around embedded networks, life-support customers and consumers affected by family violence, and;
- Refining debt indicators, especially in the context of rising energy costs.

In this submission we also suggest:

- Capturing increased data on consumer engagement with the energy market in order to adequately assess retail competition
- Investigating ways to allow easier comparisons with Victoria;
- Ensuring data on small businesses is collected to the same degree as residential consumers where applicable, and;
- Investigating improvements to the retailer report cards.

*Adding new indicators around embedded networks, life-support customers and consumers affected by family violence*

We support the proposed new indicators and believe they will help improve transparency in the retail energy market. They also align with the AER's own [Towards Energy Equity Strategy](#), which identified a number of specific consumer groups in need of improved protections, such as customers in embedded networks and consumers affected by family violence.

With an estimated 1 in 10 customers in the National Energy Market in an embedded network<sup>1</sup>, data on embedded networks is crucial. The Australian Energy Market Commission also noted in its [Final Report](#) on updating the regulatory frameworks for embedded networks that the lack of comprehensive and reliable data regarding embedded network customers was a significant drawback. We support including the proposed new embedded network data the AER outlines in its Issues Paper. Improving visibility of embedded network customers will, as the AER notes, better monitor whether consumers' rights are being met. It also has the potential to incentivise retailers against behaving in way which may harm consumers in these structures.

We also support collecting data to understand the impact of and compliance with new family violence protections, such as the number of customers affected by family violence. It is important to monitor retailer compliance with these new requirements to ensure customers are receiving the appropriate support and identify whether further improvements to rules might be required.

*Refining debt indicators will provide better visibility of how consumers are dealing with rising energy costs*

We know from our [Energy Consumer Sentiment Survey](#) (ECSS) that consumers are increasingly struggling to keep up with rising energy costs. In our June ECSS, more than half of households reported they were more concerned about paying their electricity bill than they were a year ago. The AER's data on debt adds important context and weight to this finding.

We support changes that will amend the lagging debt indicator. In the context of rising energy costs, it is particularly important we receive timely data that will help to identify early the impacts on consumers. Requiring data from retailers on debt only when it is over 90 days old does not provide timely information about how consumers are dealing with current cost-of-living pressures. We agree with the benefits outlined in the Issues Paper, that collecting data on debt from when it is 0 days old will help to identify the age and amount of debt and inform policy responses and their impacts.

Our support of the AER refining debt indicators also extends to other measures outlined in the Paper such as including information on alternative debt arrangements. We have seen in our own research that, in times of rising cost-of-living pressures, some consumers have turned to alternative ways of keeping up with energy bills, such as buy now pay later services. We agree that broadening the definition of debt to include arrangements such as 'promise to pay agreements', payment extensions or buy now pay later services will increase visibility of all consumers who may be struggling to keep up with rising energy costs.

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<sup>1</sup> NSW Legislative Assembly Committee on Law and Safety, Embedded Networks in NSW Inquiry, 12 August 2022.

Separately, we also support collecting information on how many eligible consumers are receiving concessions. Energy concessions are a key way many jurisdictional governments are attempting to assist consumers as cost-of-living pressures increase, including through the [Energy Bill Relief Fund](#). However, the Consumer Policy Research Centre found up to 38% of consumers were not receiving concessions they were eligible for depending on the jurisdiction<sup>2</sup>. The AER's performance reporting data offers an opportunity to monitor how many consumers are receiving concessions and the success of government schemes and messaging in reaching these cohorts.

*Further data on consumer engagement with the energy market is required to adequately assess retail competition*

With competition viewed as a means of delivering good consumer outcomes in the retail energy market, sufficient data must be available to monitor whether these outcomes are being met.

Energy Consumers Australia submitted a [rule change request](#) to the Australian Energy Market Commission in 2019 which called for increased reliable data to best understand the efficiency of the retail market. Some of the suggestions outlined in our rule change request are now covered either through mechanisms such as the Australian [Competition and Consumer Commission's electricity market monitoring](#) or are being considered as part of the Energy Security Board's [Data Strategy](#). However, there are some recommendations from our rule change request yet to be implemented that we believe fall within the scope of the AER's performance reporting.

Primarily, the AER's performance reporting can provide increased insight into how frequently consumers switch between retailers. The most recent round of electricity price increases has again highlighted how customers "loyal" to one retailer may find themselves paying significantly more than those who frequently shop around for the best offer. We have seen customers of major retailers receiving notices that they will be paying above the reference price set by the AER. And while consumers are encouraged to "shop around" for a better deal, there is limited visibility over how many actually choose to do so.

The AER's performance reporting data could be used to identify how many "sticky" customers retailers have. Improving visibility would help to understand how many consumers may be remaining with a retailer for a long period of time and which retailers are more likely to have "sticky" customers. Requiring retailers to provide information on how long customers have remained with them is one way of achieving this. Alternatively, it could be achieved by requesting data on the number of new customers, or customers exiting, in addition to total customer numbers.

Further, the Australian Energy Market Operator (AEMO) publishes [data](#) on the number of customer transfers between retailers. However, there is no comprehensive data on how many customers change plans with the same retailer. Additionally, including an indicator on how many customers are on electricity-only plans, or have both an electricity and gas plan with the same retailer, will give further information on consumer "stickiness". The AER should investigate whether there is a mechanism for retailers to provide these types of information.

*The AER should consider easier comparisons with Victorian data*

The AER's performance reporting data is an essential source of data for many stakeholders. However, our analysis and ability to advocate for consumers would be assisted by the inclusion of Victorian data. We appreciate that the Essential Services Commission is responsible for collecting and

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<sup>2</sup> Consumer Policy Research Centre, [Mind the Gap: Identifying the gap between energy concession eligibility and concessions received](#), November 2022.

publishing Victorian data however the AER could work with other bodies responsible for collecting retail data to investigate how data collection can be NEM-wide.

In the interim, the AER could consider including ESC data as part of the AER's regular reports and spreadsheets. We note that the quarterly performance reporting spreadsheets already include external, publicly available data, such as AEMO's retail transfer data which is used to report on customer switching.

Additionally, the AER should, where possible, ensure the kinds of data, and how it is reported, remains consistent across jurisdictions to ensure easier comparisons. For example, the ESC currently publishes data on the number of customers on a retailer's best offer while the AER does not. Access to this data across all jurisdictions would allow a more comprehensive understanding around how many consumers are paying more than they need to be. It would also allow comparisons of how jurisdictional schemes, policies and messaging are impacting consumers.

*Data on small businesses should be collected to the same extent as residential consumers*

While small businesses have not typically been considered to experience vulnerability, the impacts of the COVID-19 pandemic followed by an extended period of high energy costs have shifted this perspective. We see ample evidence that small businesses are struggling to keep up with energy costs. 59% of small businesses in our June 2023 ECSS reported that they were more concerned about paying their electricity bill than they were a year ago, an increase of 11% compared to 12 months earlier.

It is therefore just as important that data around small business debt levels is collected to the same degree as residential data to ensure stakeholders have a complete picture of the impacts of rising energy costs on small businesses. As small businesses are unable to enter hardship programs, the AER should also investigate whether there are any additional indicators that can be used to identify if small businesses are struggling to keep up with rising energy costs.

*The AER should continue to explore ways to improve retailer report cards*

The AER's Towards Energy Equity Strategy outlines the need to improve retailer report cards to increase transparency over service quality. The retail report cards offer an important opportunity to understand how a single retailer tracks over a number of metrics. We agree the AER should review these report cards to ensure they are providing the most useful information in the most accessible format.

The AER's review of the performance reporting guidelines and procedures is an important opportunity to ensure stakeholders such as ECA have the tools needed to ensure energy markets are delivering good consumer outcomes. We look forward to continuing to engage with the AER in this process. Please reach out to [alice.g@energyconsumersaustralia.com.au](mailto:alice.g@energyconsumersaustralia.com.au) with any questions.

Yours sincerely



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