



Notice of final instrument

AER (Retail Law) Performance Reporting Procedures & Guidelines

26 July 2011

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Shortened forms

ACCC	Australian Competition and Consumer Commission
ACCC/AER Information Policy	ACCC–AER Information policy: The collection, use and disclosure of information, available from the AER’s web site
AER	Australian Energy Regulator
Electricity Law	National Electricity Law
Electricity Rules	National Electricity Rules
Gas Law	National Gas Law
Gas Rules	National Gas Rules
Procedures and Guidelines	The AER Performance Reporting Procedures and Guidelines, developed under s. 286 of the National Energy Retail Law
regulated entity	Has the meaning given in s. 2 of the National Energy Retail Law. <i>(A Retailer, a distributor or any other person identified in the national energy Retail Rules as a regulated entity.)</i>
Retail Law	National Energy Retail Law
Retail Regulations	National Energy Retail Regulations
Retail Rules	National Energy Retail Rules

1 Purpose of the AER Performance reporting procedures and guidelines

The National Energy Retail Law (Retail Law) requires the AER to publish retail market performance reports providing information on the following matters:

- A retail market overview, including:
 - A statement of the number of retailers and the number of retailers actively selling energy to customers
 - An indication of the number of customers of each retailer
 - An indication of the total number of customers with standard retail contracts and market retail contracts respectively, and the numbers by reference to each retailer
 - An indication of the numbers of customers who have transferred from one retailer to another retailer
 - A report on energy affordability for small customers.¹
- A retail market activities report, including information and statistics on the following activities of regulated entities:
 - Customer service and complaints
 - The handling of customers experiencing payment difficulties (distinguishing hardship customers and other residential customers experiencing payment difficulties)
 - The provision of prepayment meters to customers, including (but not limited to) the total number of customers using prepayment meters, self-disconnections and numbers of pre-payment meters removed due to payment difficulties
 - De-energisation of premises for non-payment (distinguishing between hardship customers and other residential customers on payment plans), and re-energisation of those premises
 - Concessions for customers (where retailers administer the delivery of those concessions to customers)
 - The number and aggregate value of security deposits held by each retailer as at 30 June each year.²

This information must be provided by reference to participating jurisdictions and different categories of customer as determined by the AER.³ The retail market activities report must provide sufficient detail to explain the key factors relevant to the level of and trends in the performance of regulated entities.⁴

¹ s. 285, Retail Law; cl. 166, Retail Rules.

² s. 285, Retail Law; cl. 167, Retail Rules.

³ cl. 166(2), 167(3), Retail Rules.

⁴ cl. 167(2), Retail Rules.

The reports must also include:

- a report on the performance of retailers by reference to the hardship program indicators developed by the AER under s. 287 of the Retail Law⁵
- a report on the performance of distributors by reference to distribution service standards and associated guaranteed service level schemes⁶
- where applicable, a report on the performance of distributors in relation to the small claims compensation regime under Part 7 of the Retail Law⁷.

The reports may also include any additional matters that the AER considers appropriate for inclusion.

The AER Performance Reporting Procedures and Guidelines (the guideline) support the AER's reporting function by specifying the manner and form in which regulated entities must submit relevant information and data to the AER, including the date or dates each year by which it must be submitted to the AER.⁸ The AER is not obliged to create reporting requirements for all matters to be considered in its performance reports, and need do so only where suitable information can not be obtained from other sources.

The guideline will apply to all regulated entities in participating jurisdictions from 1 July 2012, so that the first reporting period to which the guideline will apply is 1 July 2012 to 30 September 2012. The reporting requirements specified in the guideline are binding on regulated entities, and non-compliance may attract civil penalties or infringement notices.⁹

The AER may amend the guideline at any time in accordance with the retail consultation procedure.¹⁰ In particular, should a participating jurisdiction adopt the small claims compensation regime in Part 7 of the Retail Rules, the AER may initiate consultation to establish appropriate reporting requirements to inform its reports on distributor performance in relation to that regime.

⁵ s. 285(c), Retail Law.

⁶ s. 285(d), Retail Law.

⁷ s. 285(e), Retail Law.

⁸ s. 286(3), Retail Law.

⁹ s. 282, Retail Law.

¹⁰ s. 286(4), Retail Law.

2 Development of the guideline

In preparation for its new roles in retail market performance reporting, the AER commenced preliminary consultation in 2010. The AER published an issues paper on approaches to retail market performance reporting in June 2010. The AER also hosted a stakeholder forum on 4 August 2010 in Melbourne (with video conferencing to other states).

Consultation on development of Hardship Program Indicators commenced separately with an Issues Paper in April 2010 followed by stakeholder forums on 28 May and 8 September 2010. The AER also met individually with retailers to discuss their hardship programs throughout July and August. Additional forums were held in October 2010; the first with the Energy Retailers Association of Australia (ERAA) and retailers; and a subsequent forum with consumer groups and energy ombudsman schemes.

In November 2010, the AER published a consolidated position paper on retail market performance reporting, which included the AER's updated proposals on Hardship Program Indicators. The AER held a further stakeholder forum on 26 November 2010 in Melbourne (with video conferencing in other states) to discuss the proposals in the Position Paper. Meetings with energy retailers and the AER's Customer Consultative Group continued in early 2011.

Responses to the position paper informed the development of the draft guideline released in April 2011. The draft guideline initiated the AER's final stage of consultation on the guideline, and the commencement of the retail consultation procedure set out in the Retail Rules. Submissions on the draft guideline have informed the AER's decisions on the final set of indicators and reporting requirements established in the guideline.

Retailers expressed particular concern in relation to the number of indicators that they would need to report against, as compared to the current number of indicators required under the various jurisdictional instruments. The AER proposes to report on 55 indicators to meet the requirements set out by the MCE in the Retail Law. Each of these indicators is to be reported against for each jurisdiction in which a retailer is active. Under the current jurisdictional frameworks, indicators vary slightly for each jurisdiction. As such, the total number of discrete indicators against which some retailers would be required to provide information is potentially much higher under current jurisdictional arrangements.

The benefit of the AER's proposed regime is that it allows for one uniform reporting requirement for each indicator, in a single guideline and with accountability to a single regulator. Accordingly, there is likely to be a reduction in the overall reporting requirements especially for retailers which are operating in multiple jurisdictions.

Retailers also expressed concerns regarding the increased reporting frequency under the AER's guideline compared to the current jurisdictional reporting requirements. The frequency for collecting and reporting data for each indicator requested has been carefully considered and has been made on a case by case basis. The AER has taken into consideration a number of factors in determining the frequency for collecting and reporting data, including:

- Whether the indicator targets circumstances or conduct likely to have a material impact on customers, so that more frequent collection of data would allow for the early identification of systemic issues. Early identification of systemic issues will allow the AER to address those issues promptly as they emerge, especially if they impact on customers' interests;
- Whether the information or data in question is more likely to be informative and beneficial to the AER and stakeholders if collected quarterly or annually; and
- Whether the benefits that flow from more frequent collection outweigh the cost or complexity of collection, analysis and submission of the relevant information by regulated entities.

If over time, the AER considers that the information and data collected reveal trends that warrant escalated attention (that results in an increase in the frequency of reporting) or relatively stable results (that results in a decrease in the frequency of reporting), then the AER will accordingly consult stakeholders on the merits of changing the frequency of reporting.

A summary of other issues raised in submissions, and the AER's consideration of them in finalising the guideline, is provided in Appendix A to this notice.

As advised in the Ministerial Council on Energy's Standing Committee of Officials (SCO) Bulletin No. 190 on 21 March 2011, all activities carried out by the AER prior to the commencement of the Retail Law, Retail Rules and Retail Regulations (such as consultation, making instruments and decision-making) will be supported by appropriate transitional provisions enacted by participating jurisdictions. This is to ensure that AER instruments and decisions made as a result of these activities are validly made under the Retail Law and Rules and take effect on their commencement. This means that the guideline released with this notice will take effect on 1 July 2012.

A. Summary of issues raised in submissions

Issue raised	AER response
General issues	
<i>Proposal for annual research project</i>	
<p>Submissions supported the AER’s proposed approach to reporting on energy affordability, including the proposal to prepare a targeted annual essay on energy affordability issues.</p> <p>Stakeholders suggested the AER commit to an additional annual research project to expand the scope of the AER’s research on affordability.</p> <p>Stakeholders proposed that both the targeted affordability essay and the additional research project could report on geographical and population specific energy affordability issues.</p>	<p>We are not satisfied at this stage that there is a clear need for the AER to conduct an annual research project (in addition to the annual affordability essay) as part of the AER’s annual retail performance report.</p> <p>If the AER identifies a need to undertake further research to support its functions under the Retail Law and Rules, we may do so at any time. However, such decisions are likely to be made on a case-by-case basis where we have identified an issue or emerging trend that needs to be explored in this way. Such projects could also explore geographic or population specific energy issues, in the same way that these can be considered in our annual affordability reports.</p>

Issue raised	AER response
<i>CEO approval of information provided to the AER</i>	
<p>Submissions sought clarification on when the Chief Executive Officer (CEO) is required to endorse a regulated entity's performance report for submission to the AER.</p> <p>Stakeholders noted that clause 2.3.5 of the guideline allows intra-financial year reports on quarterly data to be endorsed by a delegate of the CEO. In contrast, clause 2.3.6 refers to end of financial year reports on quarterly and annual indicators and does not include an opportunity for such a delegation.</p>	<p>The intent of the guideline is to allow a CEO to delegate authority to approve and sign the intra-financial year reports to a delegate appointed for that purpose, but that responsibility for approval and submission of consolidated annual reports should rest with the CEO.</p> <p>Clause 2.3.6 therefore requires that the end of financial year reports, which include a consolidated report on all quarterly indicators as well as additional annual performance indicators (under clauses 2.2.2 and 2.2.3), must be signed by the CEO of the regulated entity.</p> <p>The performance reporting regime provides important information on the performance of regulated entities. We believe that performance monitoring should be a priority regulated entities, and that the commitment to monitoring and improving performance should extend to senior management. In this context it is appropriate that the CEO of the regulated entity take responsibility for approval of consolidated annual performance reports.</p> <p>However, the guideline retains the flexibility for intra-financial year performance reports to be signed by a delegate of the CEO who has been assigned responsibility for approval of these reports.</p>

Issue raised	AER response
Retail Market Overview—number of customers supplied by exempt sellers	
<p>Stakeholders proposed including an indication of the number of customers supplied by exempt networks in the retail market performance report, to provide a complete picture of the retail market.</p> <p>Submissions acknowledged that while exempt sellers are outside the performance reporting regime established in Part 12, Division 2 of the Retail Law, the number of customers supplied under exemptions is relevant to the energy market overview. Stakeholders proposed that the AER report on the total number of customers based on the number of registered exempt sellers, and an estimate of all exempt sellers.</p>	<p>The AER has decided not to include customers supplied by exempt sellers in the retail market overview. As recognised in submissions The AER does not have the ability to collect data from all categories of exempt sellers. This means that any number the AER did publish would not accurately reflect the actual number of customers supplied by exempt sellers. While the AER will have approximate customer number data for individual and registered exempt sellers (at the time of registration), it will not have information on the total number of customers supplied exempt service providers.</p> <p>Exempt sellers are not covered by the guideline (because they are not regulated entities for the purposes of the Retail Law and Rules), so that we have no ability to impose binding reporting requirements on them. However, the AER will receive some relevant information from individual and registered exempt sellers at the time of registration. The AER will monitor the exemptions process and the number of customers likely to be supplied by individual and registered sellers and may include commentary on this in its performance reports from time to time.</p>
Retail Market Activities Review – Customer service	
<p>The AER proposed to report on the total number of calls to an operator or customer service officer, including</p>	<p>We maintain the view that all calls to an operator or a customer service officer should be monitored, including sales calls. We believe that sales calls to potential customers</p>

Issue raised	AER response
<p>sales calls and any abandoned calls to an operator.</p> <p>Stakeholders submitted that sales calls to an operator should be excluded as these relate to people who are not yet customers and should not be counted towards a retailer's customer service performance.</p>	<p>should form part of the overall assessment of customer service provided by a retailer. This approach is consistent with all jurisdictions¹¹ and the SCONRRR recommendations.¹²</p>
<p>Retailers submitted that calls abandoned in less than 30 seconds should be excluded from the 'total number of calls to an operator or service operator', arguing that these calls are not measurably within the retailer's control.</p> <p>Retailers noted that customers may hang up within 30 seconds due to a range of reasons that do not reflect call centre performance, for example, due to a customer changing their mind or being interrupted after dialling</p>	<p>We were not persuaded that calls abandoned within 30 seconds should be excluded from the total number of calls that a retailer receives. Setting an arbitrary 30 second exclusion period may result in genuine calls from being excluded in the data provided by retailers. All calls should be captured by a retailer's customer service policies and therefore should be included in the total number of calls.</p> <p>All retailers are likely to encounter the same issues (customers abandoning calls due to a change of mind or interruption). This reporting requirement will apply to all retailers in the same way, and so will not operate in a discriminatory manner between retailers.</p>

¹¹ ESCOSA, IPART, OTTER and the ICRC do not explicitly state that all calls should include sales calls but they require retailers to report on the total number of calls, (presumably the total number of calls would include sales calls). The QCA specifies that the information supplied must include all customer contacts through the entity call centre, whether by operator or after being connected to the appropriate menu option in an IVR system. The ESC specifies that the total number of calls include all general calls and will only include sales calls when transferred to an operator at the customer's request.

¹² The Utility Regulators Forum Steering Committee on National Regulatory Reporting Requirements (SCONRRR) Retail Working Group in National Energy Retail Performance Indicators (Final Paper, May 2007) recommended that sales calls be included in the total number of calls to an operator, page 50.

Issue raised	AER response
their number.	This approach is consistent with most existing jurisdictions ¹³ and the SCONRRR report. ¹⁴
Retail Market Activities Review – Handling customers experiencing payment difficulties	
<i>Customer energy bill debt levels</i>	
Submissions raised concerns that the requirement to report against a number of new indicators will increase costs for retailers, particularly as they will be have to build the reporting capability in their IT system. This was considered particularly so for the debt indicators as which may require systems to process a large amount of data given the size of a retailer’s customer base.	The AER recognises that retailers may incur some costs when establishing or modifying systems to report against new indicators. In developing our performance regime, we have been conscious of the need to manage the costs to retailers of compliance with the guideline. We have done this by aligning our indicators, where appropriate, with those already collected by jurisdictional regulators. ¹⁵ However, where we have determined that further information is required, we have developed new indicators to provide a fuller picture of the performance of energy retailers and the market as a whole. By taking such an approach, we have kept the number of new indicators and cost burden on retailers to a minimum.
Retailers were concerned about the AER’s general approach to payment difficulties and hardship, in	As stated in the Notice of Draft Instrument, the AER recognises that the level of debt that individual customers can sustain is likely to vary depending on their individual

¹³ ESCOSA and the ESC specifically require retailers to include calls that were abandoned in less than 30 seconds in the total number of calls received. The QCA, the ICRC, IPART and OTTER require retailers to report on the total number of calls/all customer contacts received (presumably includes calls abandoned in less than 30 seconds).

¹⁴ The Utility Regulators Forum Steering Committee on National Regulatory Reporting Requirements (SCONRRR) Retail Working Group in National Energy Retail Performance Indicators (Final Paper, May 2007) recommended that abandoned calls include those calls that were abandoned prior to 30 seconds, page 51.

¹⁵ We note that due to the varied reporting requirements in each of the jurisdictions, this has not always been possible.

Issue raised	AER response
<p>particular the proposed debt indicators. They argued that the level of debt that a particular customer carries does not necessarily correlate to that customer experiencing some form of hardship. Furthermore, they do not consider that an energy bill debt owing for 90 days or more is an appropriate proxy measure for customers who are likely to be experiencing payment difficulties. They argued that there are a number of reasons why a customer has an outstanding debt. For example, an account may be on hold while a complaint is resolved through the Ombudsman.</p> <p>Retailers also argued that they cannot be held accountable for customers who do not let them know that they are experiencing payment difficulties and that dealing with customers in hardship must always be a shared responsibility.</p>	<p>circumstances. However, the Retail Law and Rules make it clear that the identification of customers experiencing hardship or payment difficulties is a mutual obligation on both retailers and customers.¹⁶ The MCE has highlighted that: “self-identification by customers is recognised as a common means of identifying. However, retailers should have processes in place to identify customers in potential hardship and offer assistance to those customers.”¹⁷ The MCE has also made it clear that “under the National Energy Retail Law retailers and customers have a shared responsibility in identifying when a customer is experiencing payment difficulties due to hardship”.¹⁸ It is therefore clear that retailers are intended to have a role to play in identifying customers experiencing payment difficulties as early as possible to prevent larger debts from accruing. This is a view which has been supported by retailers, including AGL, who in its <i>2010 Sustainability Report</i> stated that the level of debt per customer is a critical measurement as it “assists in assessing [retailers’] degree of success in early identification of customers who are currently experiencing hardship or vulnerable to hardship.”¹⁹</p> <p>We maintain that view that energy bill debt (that owing for 90 days or more) is an appropriate proxy measure for customers experiencing payment difficulties. While we acknowledge that there may be some circumstances where a customer who is in debt is not experiencing financial difficulty, we consider that this is likely to be in the</p>

¹⁶ s. 44(a), Retail Law.

¹⁷ Ministerial Council on Energy (MCE) Standing Committee of Officials (SCO), Policy Response Paper, June 2008, pg 53:

http://www.ret.gov.au/Documents/mce/_documents/MCE_SCO_National_Framework20080613111731.pdf

¹⁸ MCE’s SCO, Responses to Key Issues Raised by Stakeholders on the Second Exposure Draft of the National Energy Customer Framework, September 2010, Attachment 1 pg 2: http://www.ret.gov.au/Documents/mce/_documents/2010%20bulletins/No.%20183%20-%20Response%20to%20Submissions%20-%20NECF.pdf

¹⁹ AGL Sustainability Report 2010, p. 76.

Issue raised	AER response
	<p>minority of cases, particularly for residential customers who have large debts and where these have been outstanding for a long period of time. We consider that this measure will reflect the fact that the reported customers have been unable to pay off their arrears before their next bill is due, which is likely to lead to further payment difficulties and/or accrual of arrears.</p>
<p><i>Estimated accounts</i></p>	
<p>Consumer groups submitted that the AER should monitor the number of estimated bills issued. They are concerned that customers' meters are often only read once a year (the minimum requirement under the Victorian Energy Retail Code and the Retail Law), which results in discrepancies between customers' actual usage and bill amounts. They argued that this discrepancy can have a significant financial impact, particularly on low income customers. For example, underestimated accounts may result in a large 'catch-up' bill once an actual meter read is taken. This may lead to bill shock that could result in the customer experiencing temporary financial hardship. Alternatively, overestimated accounts could mean that customers have to budget to pay a larger amount upfront.</p> <p>It was also noted that billing complaints to the Energy and Water Ombudsman Victoria (EWOV) increased in 2010. Therefore, it was suggested that the AER obtain</p>	<p>The AER is not proposing to monitor the number of estimated bills issued by retailers.</p> <p>Estimated bills are not always a reflection of retailer performance or compliance with obligations. It may also be a reflection of meter access issues, where customers have not provided free and unhindered access to their meters to enable them to be read. Furthermore, it is difficult to draw a direct link between estimated bills and customer payment difficulties. For example, there were a range of reasons for customers raising issues about estimated accounts with EWOV. These included a lack of understanding that retailers are allowed to issue estimated bills, customer perceptions that the estimated bills were not reflective of actual usage, and confusion about a sudden high bill after an actual meter reading is taken.</p> <p>For some customers, particularly low income customers, an unexpectedly high bill after previous underestimated bills will cause a bill shock and may result in those customers experiencing payment difficulties. Where this is the case, the experience of these customers will be captured through our other indicators which measure retailers' handling of customers experiencing payment difficulties (e.g. debt and payment plan indicators). The AER will also be alerted to any systemic issues</p>

<p>EWOV input on the extent to which customers are impacted financially by estimated accounts.</p>	<p>regarding estimated accounts from the jurisdictional energy ombudsman schemes. However, for many other customers, estimated bills will not cause financial difficulties. For example, where bills have been overestimated, the customer will receive a credit once the meter is read.</p>
<p><i>Debt and payment plan indicators</i></p>	
<p>Submissions suggested that a number of the payment plan indicators and the debt indicators for customers who are not on hardship programs should be reported less frequently, and/or on an aggregated national basis. It was argued that the current proposal to collect data for each jurisdiction and on a quarterly basis imposes an unreasonable burden on retailers for little benefit compared to a higher level of reporting such as national reporting and/or annual or half-yearly reporting.</p>	<p>The AER does not agree that jurisdictional data on a quarterly basis provides little benefit. The debt and payment plan indicators established under the guideline target circumstances and conduct that is likely to have a material impact on customers.</p> <p>Collecting data for each jurisdiction will provide valuable contextual information for considering any trends and changes over time, particularly as there are likely to be variations across each jurisdiction. For example, there are jurisdictional differences in pricing: in 2009-2010, New South Wales regulated prices rose by up to 21.7 per cent, Queensland regulated prices rose by 15.5 per cent and Victorian standing offer prices rose by around 12-19 per cent.²⁰ Given ongoing concern about energy price movements it is important to consider how price increases are impacting customers in each jurisdiction, in this case by assessing how proactive retailers are in identifying customers experiencing payment difficulties on a jurisdictional basis. Additionally, the impact of natural disasters, such as bushfires, floods and cyclones, is generally confined to particular geographical areas. Therefore, it is necessary to consider retailers' responses to customers experiencing payment difficulties on a jurisdictional basis, as customer payment difficulties may be a consequence of region-specific natural disasters.</p>

²⁰ Australian Energy Regulator (AER), State of the Energy Market Report 2010, p.100-101.

	<p>As set out in our Notice of Draft Instrument, quarterly data will be collected for debt indicators because energy consumption is likely to be affected by seasonal trends, which may increase bills and payment pressures. It will also help to identify where external events, such as economic downturn, have impacted the debt figures. This will enable best practice approaches for dealing with customers with energy bill debt to be identified and shared across industry in a timely manner. Due to the commercial sensitivity of this data, the AER is proposing to report on average debt levels, and in aggregate without reference to individual retailers. However, the AER will closely analyse individual retailer data for important trends.</p> <p>Similarly, for the payment plan indicators, quarterly data will allow for any trends to be quickly identified and acted upon in the event that it appears that retailers are not offering customers appropriate payment plans. However, it is noted that the AER has proposed that the data for the payment plan indicator on the number of customers who successfully completed their payment plan will be collected on an annual basis, because payment plans are typically calculated over a 12 month period.</p>
<p>Retail Market Activities Review – Prepayment meters (PPMs)</p>	
<p>Submissions noted the Queensland Government’s decision that the pre-payment meter provisions under the Retail Law and Rules will not apply in Queensland. Ergon Energy questioned the need to provide information to the AER on card operated meters installed on Ergon Energy’s network, as these will not fall under the Retail Law and Rules.</p>	<p>We are not proposing to impose any reporting obligations on Ergon Energy with regard to their card operated meters. In our reports, when discussing the use of PPMs by customers, we may note that there are some card operated meters which are used in limited circumstances in remote communities in Queensland.</p>
<p>Submissions again suggested that the AER should report on the number of PPM concession customers who have self-disconnected. Their concern was that in most jurisdictions the value of concessions is diminishing</p>	<p>We maintain the view that reporting separately on the number of self-disconnections for PPM customers receiving an energy concession is not warranted at this stage. As stated in the Notice of Draft Instrument, monitoring the number of PPM customers in receipt of an energy concession alongside the number of self disconnections may</p>

<p>relative to energy prices, and this may lead to an increase in hardship and self disconnections among PPM customers on low and fixed incomes.</p>	<p>enable us to attribute the number of self-disconnection events for concession PPM customers. The AER will also be monitoring trends in relation to concession customers through other indicators, such as the number of customers receiving concessions on hardship programs and those disconnected for non-payment. When assessed together with the hardship program and disconnection indicators, the data reported will provide an overall picture of the experience of concession customers. To enable us to monitor the relationship between concession customers and PPM, hardship and disconnections indicators, we have clarified in the final Performance Reporting Procedures and Guidelines that we will be collecting and reporting the data for PPM indicators separately for residential and small business customers. If, in the future, data received indicates that this additional information is warranted—to better understand the experience of PPM customers being self-disconnected—we may consider consulting on amendments to the guideline to collect it in future.</p>
<p>Retail Market Activities Review – De-energisation (disconnection) indicators</p>	
<p>Retailer submissions requested that a longer period be allowed for the submission of disconnection data to the AER. Retailers are informed of disconnections via Business to Business (B2B)²¹ notifications from distributors. Submissions noted that these notifications are not always sent to retailers in a timely fashion. Therefore, it was suggested that if retailers were given longer to report the disconnection data to the AER, the disconnection figures would be more accurate and</p>	<p>The AER is not introducing a separate and later date for the submission of disconnection data from retailers. Under the B2B Procedure, distributors are required to notify retailers within 5 business days of carrying out a disconnection.²² We therefore consider that retailers should have an adequate opportunity to collect and report accurate disconnection figures to the AER within a month of the end of each quarter.</p> <p>The proposed timeframe is consistent with current jurisdictional reporting on similar disconnection indicators, for example, in South Australia and Tasmania, which</p>

²¹ A national scheme under the National Electricity Rules for information exchanges between local retailers, market customers and distribution network service providers. The B2B Procedures prescribe the content, processes and information to be provided to support these business to business communications.

²² Australian Energy Market Operator (AEMO), B2B Procedure: Service Order Process, 26 May 2010, p.55, clause 3.3.6.

would not be subject to later revisions.	<p>already require disconnection data to be submitted within one month of the end of each quarter.²³</p> <p>We do not consider it practical or efficient to have two different dates for the submission of data on quarterly indicators, as this could lead to confusion and additional complexity for retailers.</p>
Retail Market Activities Review – Concessions	
<p>Stakeholders encouraged the AER to monitor complaints data and work closely with the energy ombudsman to ensure that systemic issues regarding the non-application of concessions to customers' accounts are identified early and addressed. However, submissions cautioned that it is difficult to rely on complaints alone to identify emerging issues of concerns when some consumers may be unaware of their right to complain. In this context submissions noted the importance of educating consumers and raising awareness about consumer protections.</p>	<p>The AER will be working closely with energy ombudsman schemes in each jurisdiction to enable the early identification of trends or systemic issues through their complaints data. We are of the view that any issues regarding the non-application of concessions to customers' accounts will be better identified to the AER through complaints from affected customers (through energy ombudsman schemes and consumer organisations etc in each jurisdiction) rather than through a specific indicator. Closely monitoring such complaints data will allow us to respond to issues as they emerge. The AER also intends to educate consumers about customer protections through information it will provide on its website and through information sheets which aim to raise customers' awareness of their rights under the Retail Law and Rules.</p>
Hardship program indicators	
Retailers argued that the indicator monitoring the	The Retail Law specifies that the purpose of a hardship policy is to assist customers

²³ Essential Services Commission of South Australia (ESCOSA), Energy Retailer Operational Performance Information: Energy Industry Guideline No. 2, July 2004 (as last varied on 1 July 2010), p.5, clause 2.3.1; Office of the Tasmanian Economic Regulator (OTTER), Electricity Supply Industry Performance and Information Reporting Guideline, May 2009, p 23, clause 8.2.1.

<p>average energy bill debt of customers on the hardship program adds little value in determining the effectiveness of a retailer’s hardship program or the profiling of a hardship program customer because the indicator monitoring average debt upon entry into the hardship program offers similar information.</p>	<p>experiencing financial hardship “to better manage their energy bills on an ongoing basis”.²⁴ Therefore, the AER anticipates that most customers on the hardship program will, over time, pay down their debt and successfully complete the program in a position to ‘better manage their ongoing energy bills’.</p> <p>Considering the average debt on entry alongside the average debt of customers on the hardship program over time will provide an indication of whether customers on hardship programs are meeting their ongoing energy costs and are able to reduce their energy debt levels. If the average debt of customers on the hardship program increases over time, while average debt on entry remains stable, this may indicate that more customers on the hardship program are struggling to afford their ongoing energy costs.</p> <p>As a result, the AER maintains its original position and will collect both the average debt upon entry and the average debt of customers on the hardship program.</p>
<p>One consumer group suggested that the AER should collect the average debt level of customers who <i>exit</i> the hardship program, because uneven debt levels between retailers at this point may reflect retailer performance.</p> <p>It was also argued that there is little point in reporting against debt levels upon entry to hardship programs in the absence of an indicator on debt levels upon exit, as debt levels upon entry alone do not constitute a performance indicator. It was suggested that when assessed alongside entry debt levels, debt upon exit will</p>	<p>The AER maintains the position that collecting the average debt of customers exiting the hardship program is of limited value. This is largely because it is not possible to compare average debt upon entry into the hardship program to the average debt upon exit from the program and draw reliable conclusions because they relate to two different sets of customers. Furthermore, as the AER is not proposing to track individual customer debt levels while they are in the program, it will not be possible to ascertain whether the customers who are exiting the program have been able to decrease their debt. Instead, we will monitor the overall trends in debt levels of customers on the hardship program.</p> <p>We do not agree that when assessed alongside debt upon entry into the hardship</p>

²⁴ s. 43(1), Retail Law.

<p>highlight energy affordability levels within the market.</p> <p>Other consumer groups supported the AER’s position. However they cautioned that if over time, there are signs from other indicators that customers may not be successfully exiting programs with little or no debt, the AER should revise its approach following stakeholder consultation.</p>	<p>program, the average debt upon exit will provide an indication of affordability levels within the market. Average debt upon exit data is likely to be somewhat misleading as it is made up of two groups of customers: those who successfully complete the program with little or no debt, and those who are excluded from the program due to non-payment or non-engagement with the retailer. As customers who are excluded from the program are likely to have higher debt levels, this is likely to skew the data and not provide a reliable measure of the success of hardship programs or a reliable indication of energy affordability.</p> <p>In the event that other indicators, including the other debt indicators collected by the AER or Ombudsman complaints data, suggest that customers are exiting hardship programs with a higher level of debt than they entered, the AER will consider revising its approach. The AER has also flagged its intention to review these performance indicators, once they have been in place for a period of time to ensure they are as effective as possible.</p>
<p>Consumer groups raised concerns about the AER’s alternative approach to collecting information on the number of customer who are meeting/not meeting their ongoing energy costs. They argued that the proposed approach may not provide meaningful information on whether customers experiencing hardship are meeting their consumption costs. Therefore, they believe that a more concrete measure of whether customers experiencing hardship are able to meet ongoing energy costs is warranted, to look specifically to the purpose of a retailer’s hardship policy, as articulated in the Retail Law.</p>	<p>The AER agrees that an indicator monitoring the proportion of customers on hardship programs who are unable to afford their ongoing energy consumption costs would be of value. However, as explained earlier in this consultation, it will be difficult to collect the required data and to draw reliable, robust conclusions from it. At this stage, the AER does not consider it appropriate to introduce a specific indicator to measure the number of customers who are meeting/not meeting their ongoing consumption costs. We therefore maintain our original position and will assess the average debt on entry alongside the average debt of customers on the hardship program over time to gain an indication of whether customers are managing their ongoing payments. In the event that the AER finds this alternative approach does not provide sufficient information to explain the trends in debt levels reported, we may reconsider.</p> <p>The AER recognises that it is very important to understand the experience of</p>

	<p>customers on the hardship program and their ability to afford their ongoing energy costs. Due to the difficulty in collecting such information in a performance indicator, we consider that it may be more appropriate to consider this issue in one of the targeted essays as part of the AER’s annual affordability report.</p>
<p>There was support for collecting free-text submissions on the types of assistance provided to customers on the hardship program.</p> <p>However, submissions expressed concern that the 500 word limit proposed in the draft guideline is too restrictive. They argued that it is important that retailers have a full opportunity to provide information about their hardship programs. Therefore, it was suggested that there should be a ‘reasonable’ limit on material provided until there is some evidence that more stringent limits need to be applied.</p>	<p>The purpose of this indicator is to provide a summary of the types of assistance retailers have provided their hardship customers throughout the year. Retailers should explain how they have assisted their customers on the hardship program to better manage their ongoing payments. Where possible, they should provide quantitative data to support this.</p> <p>As the AER will have approved retailers’ hardship policies, we will have a good understanding of the types of assistance retailers have committed to offer customers on their hardship programs. This information, including full details of retailers’ customer hardship policies, will be available to the public on each retailer’s website.</p> <p>However, the AER has amended the guideline to allow retailers to submit up to a maximum of two A4 pages of information on the assistance they have provided their customers on the hardship program over the previous 12 months. The AER considers this will be sufficient for retailers to summarise the assistance they have provided to their hardship customers.</p>
<p>Consumer groups suggested that the AER should monitor the number of third party referrals to the hardship program. It was argued that the data would provide an indication of the relationship between retailers and financial counselling services.</p> <p>The data was also considered to be a measure of the accessibility of a retailer’s hardship program, as it shows</p>	<p>The AER is not introducing an indicator on the number of third party referrals to retailer hardship programs. As set out in our previous papers data from this indicator will be very difficult to interpret, and our ability draw reliable conclusions and inferences about retailer performance or the accessibility of their hardship programs on this basis will be limited.</p> <p>We do not believe that the data from this indicator would enable the AER to ascertain whether a retailer has a good relationship with financial counsellors. For example, if a</p>

the number of customers who gained access to hardship programs only after third party involvement.

retailer reports a high number of third party referrals, this could indicate that the retailer is actively promoting its hardship policy to relevant third party representatives to assist in identifying hardship customers. Alternatively, it could reflect that the retailer is not allowing customers to self identify and that access to the hardship program is only granted after a referral from a third party. Conversely, if a low number of third party referrals is reported, this may indicate that the retailer is not promoting its hardship policy to third party agencies. However it may also reflect that customers experiencing payment difficulties prefer to contact their retailer directly for hardship assistance, even if retailers are promoting their hardship policy to financial counselling services. As such, there are a number of possible explanations for the trends in the data that may not necessarily reflect the relationship between retailers and third party representatives.

The accessibility of retailer hardship programs is more likely to be reflected in a number of other hardship program indicators collected by the AER, such as the number of customers on the hardship program and the number of customers denied access to the hardship program.