



15 February 2018

Performance Reporting Team
Australian Energy Regulator
GPO Box 520
Melbourne
Vic 3001

By email: MarketPerformance@aer.gov.au

RE: Amendments to AER (Retail Law) Performance Reporting Procedures and Guidelines 2017-18.

ERM Business Energy welcomes the opportunity to respond to the Australian Energy Regulator's (AER) draft Retail Performance Reporting Procedures and Guideline (the Guideline).

About ERM Business Energy

ERM Power Retail Pty Ltd, which trades as ERM Business Energy, is a subsidiary of ERM Power Limited, an Australian energy company operating electricity sales, generation and energy solutions businesses. Since launching in 2007, ERM Business Energy has grown to become the second largest electricity provider to commercial businesses and industrials in Australia by load¹, with operations in every state and the Australian Capital Territory. ERM Business Energy has increasing success in the small business market. www.ermpower.com.au

General Comments

ERM Business Energy recognises and understands the importance of statistical monitoring of energy retail businesses to provide guidance and transparency in market activity to the AER. However, we see the AER has proposed to considerably increase regulatory compliance obligations with a plethora of new indicators. This dramatic increase in 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 costs pressures are particularly felt across the industry. The AER needs to prudently limit the need for new reporting indicators based on imperatives, and remove those that have a speculative or uncertain value.

Further, ERM Business Energy contends that the rushed introduction of new performance indicators without allowing a time for proper preparation, poses additional costs on retailers and may well

¹ Based on ERM Power analysis of latest published financial information.

compromise accuracy and compliance. Retailers must be provided a sufficient timeframe to manage this regulatory change. We propose an implementation date of July 2019 so as to allow for system scoping, development, testing, procedure building and training for staff to capture information, including new complaint categories.

We note that the AER is not only dramatically increasing the number of indicators, but is also seeking to bring forward the quarter 4 reporting deadline (annual report) by one month, to the end of July. This compressed timeframe not only places an unrealistic expectation on retailers to compile statistics post financial year end, but also limits opportunity for thorough accuracy checks and to seek CEO sign off. This new proposed deadline would no longer be consistent with the compliance reporting due date, resulting in an inefficient process of seeking executive approvals.

We have a number of comments on the statistics that have been proposed. These are contained in the table below.

Detailed comments:

Proposed change/ indicator	ERM Business Energy Comments	Recommendation
2.3.5 Where there is more than a 10% variation in the data reported from the previous reporting period, an explanation for the variation must be provided.	When reported numbers are extremely low, generalizability about variances is highly questionable.	Have a higher threshold or minimum base trigger to this requirement.
S2.3. The number of customers that have moved from standard to market retail contracts - large customers	Large customers are not regulated with standing contracts. Given there are no large standing contracts, we are unsure whether this requirement, applying to large customers is an error? Further, tracking large customers between contract types is inappropriate as this sector, which includes many commercial and industrial customers are on bespoke, tailored arrangements. We question the value of this information to the AER.	Remove this requirement for large customers.
Definition of Fixed Benefit period	Definition should be consistent with the rules.	Define as: A period of a market retail contract during which a benefit to the customer (such as a price discount) is available and where the end date of that period is: (a) specified or

Proposed change/ indicator	ERM Business Energy Comments	Recommendation
		ascertainable at the beginning of that period; and (b) earlier than the date on which the contract will end.
S2.4. The number of customers on a market retail contract with an expired fixed benefit period – large customers	Large customer contracts are not regulated under the fixed benefit rule and should not be reported. Many of these commercial arrangements are bespoke and cover multi-sites commercial and industrial businesses.	Remove requirement for large customers.
S2.5. The number of unknown or deemed customers – large customers	Large customers are not regulated with deemed arrangements. Further, the description of this indicator for other customer types is confusing. It is not clear if ‘deemed’ customers would include those that have been assigned a deemed agreement after the expiring of their contract under rule 48. It is also unclear whether this indicator would include vacant sites. We would question the value in the AER having vacant site or unknown customer information.	Remove this requirement for large customers. Consider removing this requirement. Clarify the definition of “unknown customers” and clarify whether “deemed” customers includes those that are on deemed arrangements for other reasons such as contract expiry (in which case the customer is not unknown).
S2.8 Types of tariff structures for solar electricity customers (Quarterly)	It is doubtful that reporting on the number of customers on government vs non-government feed in tariffs will provide to the AER an understanding of “how tariffs impact customers”, nor any other qualitative information. This additional statistic will result in more onerous and costly reporting with unsubstantiated value or benefit.	Remove this requirement.
S3.10 Complaints-meter contestability – meter data (Quarterly)	The description of this indicator is quite confusing and ambiguous. If the complaint is in relation to the display of meter data on a bill, or	Clarify how new complaints will not be duplicated across indicators. We recommend a single category to capture

Proposed change/ indicator	ERM Business Energy Comments	Recommendation
	meter data that results in a bill – we would expect that billing complaint to captured in another indicator. This potentially duplicates complaint reporting.	meter contestability complaints rather than over complicate this with numerous sub categories. This will reduce the likelihood of ambiguity in complaint categorisation for retailers’ customer service representatives who often need to subjectively classify complaints in the course of their contact with the customer.
<p>S3.15. Nature of repayment agreements – fortnightly amounts</p> <p>S3.20. Number of residential customers that have missed one or more pay on time (or conditional) discounts</p>	Hardship requirements and payment plans are not regulated for business customers.	Not applicable. Remove this requirement for business customers.

Closing comments

The draft guidelines introduce several new indicators to which retailers are required to report. The AER has stated that “in some cases (they) have simplified or removed requirements in order to ensure a more efficient delivery of data”², yet there has been removal of only 1 indicator and the addition of 103, (including subcategories). We urge the AER to carefully consider the impact on the compliance costs to retailers and ultimately to the customer in determining the expansion of the reporting requirements.

Please contact me if you would like to discuss this submission further.

Yours sincerely,

[signed]

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² Page 4, Notice of Draft Instrument – DRAFT AER (Retail Law) Performance Reporting Procedures and Guidelines Version 3