

22 February 2018

Ms Sarah Proudfoot
General Manager, Retail Markets
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3000

By email: MarketPerformance@aer.gov.au

Dear Ms Proudfoot,

Consultation Paper: Review of AER (Retail Law) Performance Reporting Procedures and Guidelines

Simply Energy welcomes the opportunity to provide feedback on the proposed draft Amendments to the Australian Energy Regulator (AER) (Retail Law) Performance Reporting Procedures and Guidelines 2017-18 (the Guidelines).

Simply Energy operates in Victoria, South Australia, New South Wales, Queensland and the Australian Capital Territory retailing electricity and gas to over 660,000 customer accounts.

As a growing retailer operating across the National Energy Market, we recognise and support the principle of greater market transparency. We also recognise there are increasing concerns around energy affordability and hardship; however, we encourage the AER to consider the appropriate level of information required to achieve greater clarity.

There are a significant number of new indicators included in the draft requiring not only an IT build, in order to capture data effectively, but the draft also includes indicators that are more qualitative, requiring significant manual processes and interpretation. This will inevitably result in reporting becoming significantly more time consuming, costly and be of limited value based on the interpretation of the individual indicator's meaning. This is also not compatible with a reduced reporting deadline. Simply Energy encourages the AER to consider alternative methods to achieving the desired outcomes outside of the regular performance reporting regime.

In reviewing the draft Guideline, Simply Energy is specifically concerned with the following:

Inclusion of Large Market Customer information

Large market customers are traditionally outside the scope of performance reporting indicators as they are specifically excluded from additional customer protections afforded by the National Energy Retail Law (NERL). Section 19 of the NERL states that Part 2 of the NERL does not apply to large market customers, with the exception of Division 12. This means that large market contracts are not structured in the same ways as small customer Standard Retail Contracts and Market Retail Contracts. All large market contracts are individually negotiated based on the individual customer needs and forecast volume, load and site based sensitivities, which is very different to small customer Market Retail Contracts structured with a benefit period.

Further, "Benefit Period" is small market customer language and does not apply to a large market scenario. The general provisions of large market contracts may include demand shutdown or curtailment requirements, maximum and minimum monthly volumes or 'take or pay' arrangements

to ensure that the forecast volume that has been contracted is paid for. Each of these are variables based on the contacted volumes and anticipated load on the infrastructure.

The end of contract arrangements are also generally negotiated along with the initial contract to ensure continuity of supply. There are many contracts that are negotiated under competitive tendering arrangements, with some customers that propose their own terms for supply based on their individual needs for continuity of supply and/or notice requirements for outages, emergencies etc.. These arrangements will most certainly differ between retailers and there is no standard contract or default position that a customer moves "back on to" for their supply.

The above parameters makes it difficult to determine the value of collating the data on large customers, their contracts and how that fits into the objective. As a result it is unclear what the AER is looking for with the addition of large market customers to its indicators. Simply Energy requests the AER review the intended outcome as the current drafting does not seem appropriate and may not be meaningful due to significantly differing practices for contracting customers in that segment of the market.

Additional hardship indicators

The AER's Hardship Review has been announced and it states that it will look in detail into the functioning and effectiveness of retailer's hardship programs. Simply Energy considers that the outcome of the hardship review may provide the AER with better information with which to determine what types of information is appropriate on an ongoing basis. If the review leads to changes around the approach to hardship, as anticipated, this could lead to further review of indicators required, leading to further costs in ensuring indicators are captured and reported.

Self-identification vs retailer identified

This is a subjective concept and it is difficult to determine how to differentiate between the two forms of identification. The example survey questions provided at the retailer forum are appropriate for a qualitative review but not as easily mirrored in a quantitative format. The following points make this type of reporting a significant challenge if not impossible to develop a population of customers from:

- The measurement or counting of instances of "I can't afford that!", "I'm really struggling with the bills at the moment", vs "I want to go on your hardship program" or "I'm in hardship" within systems that are primarily event logs and billing engines, is exceptionally difficult. The statements that a customer makes which may be indicative of self-identification are not recorded as part of the event record in the same way that a call recording may have the customer expressing that information to the agent.
- The reporting would require every agent across retailers to record the incoming reason in a consistent manner or the indicator would need to be based on analysis of conversations from call recordings, and system notes where spelling and time constraints may influence the reporting outcomes.
- Each retailer may have a different threshold or interpretation on what constitutes a voluntary nomination from the customer verses the retailer identifying the reasons;
- Each agent may have a different understanding of the indicators therefore record the reasons differently based on their individual roles within the organisation. For example an agent calling from credit management calling about an overdue bill may see the customer as having difficulties whereas a call centre agent who is told that the bill is high may assume that there is a billing error; and
- Each customer will present and/or represent their personal situation in a different way. They may mask the need for assistance with a billing complaint regarding that value or complain that the sales agent was misleading about the rates when the core issue is affordability.

Assistance offered and the uptake by the customer

There are a significant number of variables in this space such as the timing of the offer being made, where an offer has been made the customers' acceptance of that offer, the agreement to participate in that form of assistance and/or the ability to participate in that form of assistance and then quantifying that value or number. The below are some examples of the data:

- How is a retailer to count when the offer is made and the uptake of that offer by the customer over the time of the entire transaction? For example in Victoria there is a requirement to make an offer to a customer and allow them six business days to accept and/or propose another payment arrangement.
- Because of the periodic nature of the reporting and its quantitative nature, this type of indicator is much more suited to targeted review where a customer can be taken on their individual merits and time to report is not a factor.
- Not all forms of assistance can be offered to all customers therefore simply being on an offer does not denote the customer's ability to accept the offer. For example, not all customers experiencing difficulties are entitled to concessions and/or payment via CentrePay as this requires access to Centrelink benefits
- Reporting this indicator will require significant manual reporting and therefore be time consuming. The quality of data will also be an issue as systems are built around traceable hardship requirements such as payment arrangements, rather than customer driven requirements such as the referral to government and non-government assistance and or application for grants. This will make it impossible to cover the full breadth of hardship policy obligations.

Reasons for refusing hardship entry

The reasons for refusal involve a multitude of factors that are not easily categorised in to the limited set of reasons proposed, nor are the reasons being suggested exclusively reasons for refusal by a retailer. For example, a customer will not be refused entry because they won't accept a payment plan, as the negotiation of a payment plan is separate to being included in the program.

Setting any form of predetermined classification of these types of reporting requirements, especially where they are not reason enough to remove a customer from the hardship program, will generally only demonstrate that "Other" is the common category for denying access.

Where a customer fails to enter a payment arrangement this doesn't preclude the customer from being in hardship but rather demonstrates that there is an issue with capacity to pay and/or refusal to participate in the requirements of the program. This scenario is not a denial of entry. There may also be a perception that retailers have conditional entry criteria, leading to them being challenged on not allowing entry, when this is a removal of the customer from the program for failure to comply.

Difficulty in classifying deemed customers

Deeming customers, or customers that are taking supply whether known or unknown is a complicated area insofar as they are normally transitional and can be altered retrospectively based on when a customer accepts responsibility for supply. They can have zero consumption for a vacant property or be created for two days between tenants to allow for cleaning that no one will take responsibility for. The other issues may be that:

- The retailer can only determine the type of meter based on the site characteristics, not by actual customer class or intended use because it is largely unknown. Simply Energy have seen on a number of occasions that occupier or deemed customer accounts exist as a commercial property where the property has been converted to a residential use but this change remained unknown.

- The knowledge of a deemed contract whether the customer is known or unknown demonstrates that the property is an unknown quantity not a known quantity. This raises the question as to what does the AER intend to see and or what value does an unknown quantity of an unknown customer base have and what is anticipated to be concluded from that.
- Where there is a deemed contract with zero usage and the retailer doesn't charge for daily supply to the property, is that still counted towards the indicator? In this case there is the potential for someone to take supply which would be the trigger point for the contract to be in effect.

Commencement date:

Simply Energy is concerned with the commencement date as proposed. In order to report full Q1 2018/19 data, systems and processes to capture all requirements must be fully implemented by 1 July 2018. Factoring in the final version release, this does not allow for enough time to scope and build requirements. Therefore, Simply Energy supports a commencement date of 1 September 2018, with the first new report due 28 February 2019.

In conclusion

Simply Energy supports better market transparency, and the AER Market Performance Report is one method towards better transparency. Due to the qualitative nature of some of the proposed indicators, we encourage the AER to review the methods of obtaining desired information, and balancing the desired information with regulatory cost and what it is practical for retailers to do.

If you have any questions or wish to speak to a representative of Simply Energy regarding this submission please contact Sara Juric on 0419 593 595 or by email at Sara.Juric@simplyenergy.com.au.

Yours sincerely



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Simply Energy