CUAC
Consumer Utilities Advocacy Centre

Level 2, 172 Flinders St
Melbourne VIC 3000
Phone: 03 9639 7600
Fax: 03 9639 8966
ACN 100 188 752

1 June 2011

Mr Tom Leuner
General Manager, Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne, VIC 3001

By email: AERInquiry@aer.gov.au

Dear Mr Leuner,

Notice of draft instrument AER Performance Reporting Procedures & Guidelines (April 2011); draft instrument AER Performance Reporting Procedures & Guidelines (April 2011)

The Consumer Utilities Advocacy Centre Ltd ("CUAC") is an independent consumer advocacy organisation. It was established to ensure the representation of Victorian consumers in policy and regulatory debates on electricity, gas and water. In informing these debates, CUAC monitors grass roots consumer utilities issues with particular regard to low income, disadvantaged and rural consumers.

We have been involved in the AER's consultations on the performance reporting procedures and guidelines. We responded to the AER's Retail Market Performance Reporting Position Paper (November 2010), the AER's Issues Paper on Retail Market Performance Reporting (June 2010) and the AER's Issues Paper on National Hardship Program Indicators (April 2010), and participated in the AER public forums.

CUAC is generally supportive of the proposed indicators outlined in the AER's April 2011 papers - Notice of draft instrument AER Performance Reporting Procedures & Guidelines ("Notice of draft instrument") and the Draft instrument AER Performance Reporting Procedures & Guidelines ("draft instrument"). In particular, we strongly support the proposed indicators on - payment difficulties, disconnections, reconnections, hardship program indicators, complaints - for the reasons set out by the AER in the Notice of draft instrument. These indicators, including the energy affordability report, are critical in the context of rising energy prices where more customers are requiring assistance to manage their energy bill payments.

According to the Energy and Water Ombudsman (Victoria ("EWOV"), credit is now EWOV's second largest issues category after billing.

> From July to December 2010, Credit accounted for 16% of all issues customers raised with us — 6,630 issues, up 54% from 4,312 issues from July to December 2009. Payment difficulties (40%) was the most common Credit issue —a sign, we believe, that people who may have been coping previously found themselves needing help to sort out affordable payment arrangements. In the second half of 2010, 55% more electricity customers and 58% more natural gas customers raised issues about payment difficulties with us than in the second half of 2009. We helped customers negotiate 44% more payment plans than we did a year ago.[1]

In the second half of 2010, EWOV received five times more billing-related electricity disconnection cases than four years ago (and 4 times more billing related natural gas disconnection cases).

> Still comparing the second half of 2010 with the second half of 2009:
> - electricity cases about actual disconnection for account arrears were up 42% and those about imminent disconnection were up 78%
> - gas cases about actual disconnection for account arrears were up 20% and those about imminent disconnection were up 97%.[2]

There are, however, a few indicators, which we feel require further response.

Retail market overview – *exempt networks*

We raised this in our 23 December 2010 submission to the AER. We reiterate our concerns again as this matter, remains unaddressed.

We believe that the number of customers in each participating jurisdiction who are supplied by exempt networks should be reflected in the public report. While exempt sellers might be outside the performance reporting obligations, the number of exempt customers is relevant to the energy retail market overview. Based on the number of exempt sellers registered, we suggest that the AER provide an estimate of, if not all the exempt sellers, at least the number of registered exempt sellers operating. A failure to include this in the energy retail market overview provides an incomplete picture of the energy retail market.

---

[1] EWOV, Resolution No. 29 (May 2010), at 9.

[2] EWOV, Resolution No. 29 (May 2010), at 10.

Retail market activities review - ***billing and notice path indicators - estimated bills***

We note that the AER will not be including an indicator monitoring the number of estimated bills issued. This is on the basis that; "[e]stimated bills are more likely to reflect access to customers' meters and may not always result in payment difficulties, for example where the bills have been over estimated and the customer receives a credit once the meter is read."[3]

We recognise that this may be true in some cases. However, estimated accounts do not merely arise because of meter access issues. In CUAC's experience, often, the customer's meter is simply not read as regularly as their bills are issued, but read only once a year as this is the minimum requirement under the Victorian Energy Retail Code.[4] Consumers should be billed on actual consumption; otherwise, there is disconnect between actual usage and bill amount.

Further, for low income consumers particularly, both underestimated and overestimated accounts have significant financial impact. Low income consumers have fixed and limited income. Underestimated accounts might result in a large "catch-up" bill when the customer's meter is subsequently read. A "bill shock" will lead to temporary financial hardship for the customer. Overestimated accounts would mean that customers had to budget to pay a larger amount upfront; this would have been stressful and difficult for customers with fixed and limited means.

EWOV data indicates that billing is the issue customers complain most about and that complaints about estimated bills have increased.

> From July to December 2010, Billing accounted for 43% of all of the issues customers raised with us—17,936 issues, up 26% from 14,275 issues from July to December 2009.... High bills [were] the most common Billing sub-issue—22% of all Billing issues... Billing errors (16%), tariffs (12%), estimation (9%) and meters (8%) followed.[5]
>
> Customers raised 64% more issues about estimated bills with us in the second half of 2010 than in the second half of 2009.[6]

In light of the above, and the financial impact estimated accounts have on low income customers, we urge the AER to include an indicator on monitoring the number of

---

[3] Notice of draft instrument AER Performance reporting procedures & guidelines (April 2011), at 45-46.

[4] Essential Services Commission of Victoria, Energy Retail Code (Version 8, April 2011), clause 5.1.

[5] EWOV, Resolution No. 29 (May 2010), at 9.

[6] EWOV, Resolution No. 29 (May 2010), at 27.

estimated bills issued. We also suggest that the AER obtain EWOV input on the extent to which customers are impacted financially by estimated accounts.

Retail market activities review – *Concessions*

The AER stated that customers will be aware of the non-application of concessions on their bills as rule 25(1) of the National Energy Retail Rules ("NERR") requires retailers to include, on customers' bills, any amount discounted. On this basis, the AER has retained its view of addressing issues arising from the non-application of concessions to customers' bills through complaints from affected customers rather than through a separate indicator.

To ensure that systemic issues regarding the non-application of data are identified early and addressed, the AER needs to monitor complaints data and work closely with the energy ombudsman. It is, however, difficult to rely on complaints solely to identify emerging issues of concerns as some consumers are not aware of their right to complain. This highlights the importance of consumer education and raising awareness about consumer protections.

Hardship program indicators – *third party referrals*

We recognise the difficulties in ascertaining what high or low figures on third party referrals mean. As mentioned in the notice of draft instrument, a high number of third party referrals could indicate that the retailer is actively promoting its hardship program to relevant third parties; it could also indicate that retailers are not permitting customers to self-identify.

A measure of the accessibility of a retailer's hardship policy is the number of customers initially denied entry into, or not referred by the retailer to, its hardship program, who subsequently gained admission through a third party referral or through the intervention of the energy ombudsman. We suggest that the AER consider including this as an indicator.

Hardship program indicators – *debt on exit from the hardship program*

Retailers have advised the AER that "customers successfully completing or exiting the program by agreement with the retailer have little or no debts and generally go on to a flexible payment arrangement." On this basis, the AER has concluded that there is limited value in collecting the average debt levels for customers successfully completing hardship programs. The AER has proposed "monitor[ing] the number of customers successfully exiting retailers' hardship programs on a monthly basis as well as average debt levels across hardship programs." [7]

[7] Notice of draft instrument AER Performance reporting procedures & guidelines (April 2011), at 63.

We support this approach at present. However, if over time, there are signs from other indicators that customers may not be successfully exiting programs with little or no debt (for example: an increase in the number of disconnections of customers who within the past 12 months, successfully exited a hardship program), the AER may need to revise its approach, following stakeholder consultation. The revised approach could be to include an indicator measuring debt on successful exit from a hardship program.

Hardship program indicators – *meeting/not meeting ongoing consumption*

We note that the AER has acknowledged the value of an indicator monitoring the proportion of customers on hardship programs who are unable to afford their ongoing energy costs.[8]

Retailers were, however, opposed to the indicator "claiming that it would be difficult and onerous to report" and that "the data may be skewed by incentive payments and debt waivers"; that there was "significant risk that the data could be open to misinterpretation."[9]

As an alternative, the AER has, therefore, proposed to compare trends over time in the "average debt on entry" alongside the "average debt of customers on the program" to indicate whether the hardship program is effective in assisting customers reduce their energy bill debts.

We are concerned that the alternative approach proposed by the AER may not provide meaningful information on whether customers experiencing hardship are meeting their consumption costs. For example, the AER has acknowledged that data comparing "average debt on entry" alongside the "average debt of customers on the program" could be interpreted differently.[10]

We believe that a more concrete measure of whether customers experiencing hardship are able to meet ongoing energy costs is warranted. Such an indicator goes specifically towards the purpose of a retailer's hardship policy, as articulated in the National Energy Retail Law ("NERL"). That is, "to identify residential customers experiencing payment difficulties due to hardship and to assist those customers to better manage their energy bills on an ongoing basis."[11]

---

[8] Notice of draft instrument AER Performance reporting procedures & guidelines (April 2011), at 64-65.

[9] Notice of draft instrument AER Performance reporting procedures & guidelines (April 2011), at 32.

[10] Notice of draft instrument AER Performance reporting procedures & guidelines (April 2011), at 32.

[11] Section 43(1), National Energy Retail Law (South Australia) Bill 2010.

Hardship program indicators - ***Number of residential customers disconnected for non-payment of a bill/reconnected who successfully completed the hardship program in the previous 12 months***

These indicators are critical; we strongly support these indicators for the reasons stated by the AER in the Notice of draft instrument. [12]

Thank you for the opportunity to participate in the AER's consultations on the performance reporting procedures and guidelines. If you have any queries, please contact the undersigned on (03) 9639 7600.

Yours sincerely,

Jo Benvenuti
Executive Officer

Deanna Foong
Senior Policy Officer

[12] Notice of draft instrument AER Performance reporting procedures & guidelines (April 2011), at 68-69.