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Mr Tom Leuner
General Manager, Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne, VIC 3000

By email: AERInquiry@aer.gov.au

Dear Mr Leuner,

AER Retail Market Performance Reporting Position Paper (November 2010)

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 welcome the opportunity to comment on the AER's Retail Market Performance Reporting Position Paper (November 2010) ("Position paper").

In general, the proposed set of indicators in the Position Paper is an improvement from the set proposed in the Issues Paper. In particular, we are pleased to see inclusion of the following in the Position Paper:

- an annual targeted research project on affordability with the energy affordability report;
- an indicator on the number of customers using Centrepay;
- additional indicators on payment plans;
- an indicator on total reconnections for comparison with the number of reconnections within the 7 days time frame;
- a quarterly reporting period for security deposits;
- an indicator around hardship program participants' ability to meet their energy costs;

- an indicator on the payment methods of hardship program participants.

We submitted to both the AER's Issues Paper on Retail Market Performance Reporting (June 2010) and the Issues Paper on National Hardship Program Indicators (April 2010) and participated in the AER public forums on these areas. Therefore, in this submission we have only commented on the indicators in the Position Paper which we feel require further response.

General comments on Position Paper

Frequency of reporting[1]

We strongly support more frequent reporting, that is, quarterly reporting through quarterly bulletins and a consolidated annual report.

We believe that the public benefits arising from more frequent reporting outweighs the costs. Over time if data trends reveal that quarterly reporting of some data is not necessary, changes to the reporting frequency may be warranted.

More frequent collecting and reporting of data allows detailed inferences to be drawn about changes in the retail energy market and customer experience over time. It allows trend analysis over time; seasonal changes can be captured; systemic issues can be identified more quickly. In some cases, short term variations will have greater impacts on consumers, and monthly indicator data should be collected (for example: disconnections, payment plans, National Hardship Program Indicators) and reported on a quarterly basis.

More frequent collection and reporting of data allow the AER to promptly identify areas of concern for further investigation and response. We cannot rely solely on energy ombudsman complaints to highlight areas of concern because some consumers are unaware of their rights and thus do not raise complaints.

The availability of timely public data, through quarterly reporting, provides more avenues for consumer advocacy. We are then able to engage and respond in a more meaningful way with regulators, government and industry. There is limited value in annual or biannual reporting of data. The time lag from annual and biannual is too long.

Data which is not publicly reported

The Position Paper indicates that the AER would be receiving data from public sources and AEMO (for example: AEMO's postcode data on the breakdown of small customer

[1] AER, AER Retail Market Performance Reporting Position Paper (November 2010), at 3.

types for each retailer).[2] According to the Position Paper, such data will not be reported as a matter of course. The AER may comment on the data (that is, provide a qualitative description) in its public report if trends or patterns emerge from the data, or report aggregated data.

CUAC suggests that the AER include a comment in its public report about whether the data it receives has been analysed or not. Otherwise a lack of comment could imply either non-analysis or that analysis has been undertaken but no trends observed. If data has been analysed, the public report should state whether any patterns and trends were revealed.

AER research

The Position Paper suggests that there is a range of research projects which would enhance or better inform the performance reporting framework. For example, research on whether more spatial (geographical) detail in reporting is useful. The Position Paper states that the AER "will consider [its] capacity to conduct market research as part of [its] future role under the Customer Framework" and that research will be undertaken on an ad hoc basis in response to emerging trends in the data reported.[3]

Rather than undertaking research on an ad hoc basis, we would like to see the AER commit to undertake an annual research project, in addition to the targeted research project on energy affordability which we support. Customer surveys to better understand the consumer experience (for example: the experience of customers who have been disconnected; customers who have successfully completed the hardship program etc) are particularly useful. The Essential Services Commission of Victoria (ESCV), for example, engaged a research company to undertake research in December 2010 with Victorians who have had difficulty paying their utility bills so as to better understand the customer experience. This is part of the ESCV's qualitative review of retailers' hardship practices.

<u>Retail Market Overview</u>

Retail market structure

We support the proposed indicators at page 13 of the Position Paper.

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[2] For example: AER, AER Retail Market Performance Reporting Position Paper (November 2010), at 10-11, 13.

[3] AER, AER Retail Market Performance Reporting Position Paper (November 2010), at 41.

Customer numbers and the distribution of standard and market retail contracts

During the AER public forum on 26 November 2010, retailers objected to quarterly reporting on the number of customers who are on standard contracts and the number who are on market contracts on the basis that it is unnecessary and too costly. We support quarterly reporting of this indicator for the reasons which are listed in the Position Paper.[4]

Exempt networks[5]

We note that under the National Energy Customer Framework (NECF), the AER performance reporting procedures and guidelines apply only to authorised retailers and as such exempt sellers are excluded. The Position Paper mentions that information on the nature and scope of exemptions and a list of registered exempt sellers will be available for public scrutiny on the AER website. It is unclear how comprehensive this register will be, given that there is a category of deemed exemptions where registration is not required.

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

Energy affordability

We support the proposal for a targeted research project (essay or case study) on energy affordability to be included in the energy affordability report. In addition to the AER's Customer Consultative Group, other consumer groups, financial counsellors, community legal centres, and energy ombudsman are able to identify and recommend potential research topics.

[4] AER, AER Retail Market Performance Reporting Position Paper (November 2010), at 10-11.

[5] AER, AER Retail Market Performance Reporting Position Paper (November 2010), at 12.

Retail Market Activities Review

Handling of customers experiencing payment difficulties

We support the AER's updated proposal on page 29 of the Position Paper. However, we are disappointed that there are no billing and notice path indicators in the Position Paper.

***Customers with energy bill debt*[6]**

We had in our submission to the Issues Paper recommended that indicators on billing and notice paths be included. That is:

- Number of bills issued and number of bills paid by the due date;
- Number of payment extensions given;
- Number of late payment fees charged and number paid;
- Number of reminder notices sent out;
- Number of disconnection warning notices sent out;
- Number of customers on a shortened collection cycle.

We feel that the AER has not given due consideration to the relevance of including the proposed billing and notice path indicators. The proposed indicators were rejected on the basis that retailers are not obliged to provide bill extensions under the NECF. Also, as some customers intentionally delay payment of their energy bills, the number of reminder and disconnection notices may not accurately reflect the extent of customers experiencing payment difficulties.

We believe that the proposed indicators, taken in consideration with other indicators (for example, disconnection rates, number of people on payment plans etc) provide a more comprehensive picture of the number of customers who may have payment difficulties.

The NECF does not oblige retailers to provide payment extensions. However, it does require retailers to issue reminder and disconnection warning notices. Most customers who merely forget to pay their bill on time would normally pay upon receipt of a reminder notice. Therefore, it would be reasonable to expect to see significantly fewer disconnection warning notices issued as compared with the number of reminder notices issued. If data indicates a large number of disconnection warning notices have been issued, this could indicate that energy is becoming more unaffordable and that customers will pay only at the threat of disconnection.

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[6] AER, AER Retail Market Performance Reporting Position Paper (November 2010), at 27-29.

We would like to see an indicator on the number of estimated accounts. Estimated billing is currently reported in Victoria as it is relevant to billing and credit management. Under the NECF, retailers are required to use best endeavours to ensure that actual readings of the meter are carried out as frequently as is required to prepare bills and in any case at least once every 12 months.[7] Customers should be billed on actual reads. Therefore, unless there is access issues, customers generally should not receive an estimated bill unless they have agreed to this. Estimations can result in a customer receiving a large "catch up" bill once an actual meter read is taken. An unexpected larger account may cause temporary payment difficulties for customers.

Direct debit plan terminations

Flexible payment options may *prevent* customers from falling into arrears. An indicator on the number of customers on flexible payment options is one indicator of the level of assistance retailers extend to their customers.

Defaults on flexible payment options and the termination of such arrangements provide a useful indication of financial hardship. We acknowledge that some defaults may arise from administrative errors or customer oversight. However, data showing an upward trend may (read with other indicators) suggest that a larger proportion of customers are finding it increasingly difficult to budget for their payments.[8]

We therefore suggest the inclusion of indicators monitoring the use of flexible payment arrangements and the number of arrangements which are terminated for non-payment.

Monitoring payment methods and Centrepay

We are pleased to see the inclusion of the indicator to monitor the number of residential customers using Centrepay to pay their energy bills. We strongly support its inclusion.

Payment plans

CUAC supports the AER's updated proposal at pages 36-37 of the Position Paper.

In particular, we strongly support the indicators linking customers who were on payment plans in the previous 12 months with disconnection and reconnection rates:

> Number of residential customers (excluding hardship program customers) on a payment plan in the previous 12 months who were disconnected for non-payment of a bill....;

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[7] Rule 20(2), National Energy Retail Rules.

[8] Essential Services Commission, Energy Retailers Comparative Performance Report Customer Service 2009-2010, at18.

> Number of residential customers (excluding hardship program customers) on a payment plan in the previous 12 months who were reconnected in the same name and at the same address within seven days of disconnection...

Information on the characteristics of customers, in this instance, those who were previously on a payment plan in the last 12 months, provide a better understanding of whether more vulnerable customers are being disconnected from and reconnected to supply.

The Position Paper defines successful completion of a payment plan as:

> [A] customer successfully completes their payment plan where they have paid off their arrears in full and are returned, by agreement with the retailer, to the normal billing and collection cycles, including where they agree to a new flexible payment arrangement.[9]

We agree, as discussed at the AER public forum on 26 November 2010 that the arrears refers to any amounts overdue and not just debts which are more than 90 days overdue. This understanding of arrears should be reflected in the definition of successfully completing a payment plan.

We would like to see data on the number of payment plans offered to small businesses included in the reporting. While retailers are not required to offer payment plans to small business customers under the NECF, the data reported would reflect the positive steps taken by retailers to assist small businesses with payment difficulties.

De-energisation (disconnection) and re-energisation (reconnection)

We support the disconnection and reconnection indicators at page 43 of the Position Paper.

No customer should be disconnected solely due to an inability to pay for his/her energy accounts. Retailers must assist customers avoid disconnection by offering reasonable payment plans, flexible payment options, effective hardship assistance (including incentive schemes, debt waiver), energy efficiency advice (including energy audits, appliance replacements) to assist customers manage ongoing consumption. A key measure of the success of this assistance is the extent to which customers are disconnected and reconnected in the same name and at the same address. In Victoria,

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[9] AER, AER Retail Market Performance Reporting Position Paper (November 2010), at 37.

there appears to be an upward trend of disconnection; the disconnection rate is now at its highest level since 2005-06 and this is a real concern.[10]

We are pleased that the AER will consider how best to include information on the number of wrongful disconnection payments made in Victoria as, part of its retail market performance reports.

We support the 24 months time frame for measuring multiple disconnections[11] and the seven day threshold for monitoring reconnections.[12]

Concessions

We support the proposed indicators at page 47 of the Position Paper. However, we would like to raise the issue around the non-application of concessions to customers' accounts.

The AER has stated that it is:

> not proposing to collect information on retailers who do not apply concessions to customers' accounts....any issues or concerns with retailers' performance in this area will be better identified to the AER through complaints from affected customers (to the AER, energy ombudsman schemes and consumer organisations) rather than through a specific indicator.[13]

As mentioned above, it is difficult to rely on customer complaints to identify problems. Some consumers may be unaware of their rights and as such do not lodge complaints. Further, in Victoria, energy bills currently show one single amount instead of two amounts (full amount and concession amount) which used to be the case in the past. Therefore, it is impossible for the customer to identify whether they are actually receiving the discount or not.

In view of the above, we recommend that data be collected and reported on retailers who do not apply concessions to their customers' accounts.

Customer Service

We support the AER's updated proposal at page 56 of the Position Paper, and the collection of data for each retailer on a national basis and quarterly reporting of such data. However,

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[10] Essential Services Commission, Energy Retailers Comparative Performance Report Customer Service 2009-2010, at 28-29.

[11] AER, AER Retail Market Performance Reporting Position Paper (November 2010), at 40.

[12] AER, AER Retail Market Performance Reporting Position Paper (November 2010), at 42.

[13] AER, AER Retail Market Performance Reporting Position Paper (November 2010), at 47.

there needs to be a firm commitment on the AER to undertake assessments of retailers' customer service performance particularly when data trends indicate that there might be an issue of concern. This includes surveys and independent call centre monitoring to gauge customer experience with call centres. The ESCV, for example, engaged Customer Service Benchmarking Australia (CSBA) to undertake mystery shopper surveys in 2009-10 to measure call centre performance.[14]

Complaints

We support the AER's updated proposal at pages 60-61 of the Position Paper.

Hardship Program Indicators

During the AER forums, retailers have consistently raised the need for there to be a discussion on what the policy intent for a hardship program is and how this applies to the national hardship program indicators.

We are of the view that the policy intent is articulated in the National Energy Customer Framework (NECF):

> The purpose of a retailers' hardship policy 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.[15]
>
> A retailer must give effect to the general principle that de-energisation (or disconnection) of premises of a hardship customer due to inability to pay energy bills should be a last resort option.[16]

The policy intent is not merely to avoid disconnection; there is a wider scope which is to assist customers to move towards a sustainable outcome. The NECF minimum requirements for a customer hardship policy[17] support the wider policy intent.

The National Hardship Program indicators should therefore support the policy intent set out in the NECF. The indicator on the rate of disconnection 12 months after customers successfully exited a hardship program, for instance, supports the policy intent of "assisting customers to better manage their energy bills on an ongoing basis."

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[14] Essential Services Commission, Energy Retailers Comparative Performance Report Customer Service 2009-2010, at 44.

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

[16] Section 47, National Energy Retail Law (South Australia) Bill 2010

[17] Section 44, National Energy Retail Law (South Australia) Bill 2010

Entry into hardship programs
Hardship program customers receiving concessions
Customers denied access to hardship program

We support the AER update proposal at pages 64-65, 67 and 70 of the Position Paper.

Debt on entry to hardship program

We support the AER's updated proposal at page 75; we are pleased to see that debt levels upon entry into the hardship program will be reported in debt levels.

Debt on exit from hardship program

CUAC submits that the AER should monitor the average debt level of customers exiting the hardship program.

In Victoria, three retailers (TRUenergy, Click Energy, Powerdirect) reported a large increase in debt on exit of a hardship program during the reporting period 2009-10. These three retailers all reported an increase of over $500 on exit per customer.[18] We note that the data reported in Victoria does not distinguish between customers who have successfully exited from a hardship program from those who exited because of non-compliance. Nevertheless, we are concerned that customers are exiting hardship programs with a higher debt level than they had when they first entered the program. Further, a customer's non-compliance to the hardship program (resulting in his/her removal from the program) may arise from unreasonable expectations imposed by the retailer.

As mentioned above, the purpose of a retailer's hardship policy is to "[assist] customers to better manage their energy bills on an ongoing basis." The objective is to help customers move towards a sustainable outcome where their capacity to pay matches their ongoing energy costs. We acknowledge that debt elimination may not occur in all cases where a customer successfully completes a hardship program. However, if a customer is to be assisted to "better manage their energy bills on an ongoing basis," he/she generally should not be exiting the hardship program "successfully" with a higher amount of debt than what he/she had upon first entering into the hardship program.

While customers in a hardship program may, in the early stages of the program, have increasing debt levels because of their inability to match payments with their energy cost, through the hardship assistance rendered (which may include energy efficiency advice/audits, appliance replacement, utility relief grants, incentive payments, debt

[18] Essential Services Commission, Energy Retailers Comparative Performance Report Customer Service 2009-2010, at 8-10, 53-56.

waiver etc), they should be moving towards a more sustainable outcome. Their debt levels should be stabilising and eventually decreasing. It is, therefore, important to measure the debt levels of customers who "successfully" exit the hardship program. In our view, it is difficult to regard a hardship program as effective if a customer emerges from the program "successfully" with a larger amount of debt than upon entry into the program. There is the potential for such a customer to be at risk of disconnection. Further, the Position Paper refers to retailers' comments that "some hardship program customers may request to exit the program with a small amount of debt (rather than no debt) which they are able to manage and repay outside of the hardship program." These customers exit the program with the "agreement of the retailer."[19] Thus, even retailers generally acknowledge that customers, who exit their hardship program "successfully" or with their agreement, would not be exiting with a large debt amount.

For the reasons stated in the Position paper, CUAC supports the indicator proposed by the AER on monitoring the average debt levels of customers who are on the hardship program and either version of the proposed indicator on the proportion of customers on each hardship program with debt levels that are increasing, stabilising and decreasing. However, these indicators should not be seen as alternatives to measuring the debt level of those "successfully" exiting the hardship program.

Retailers have suggested an indicator to measure the number of customers on the hardship program who are managing their payment plans (the payment plan success rate measure). That is, the number of customers who the retailer considers as making payments towards their agreed payment arrangement as a percentage of the total number of payment arrangements under the hardship program. We agree that this will provide an indication on the appropriateness of the payment plan the customer is on and whether capacity to pay has been considered in the payment plan offered to the customer. There is the potential that the percentage reported could be consistently high because customers who fail in their payment plan arrangements are removed from the hardship program and therefore not included in the number of payment arrangements under the hardship program. In addition, the payment plan success rate should not be regarded as the sole determinant as to the effectiveness of a hardship program. We are of the view that an effective hardship program should prevent disconnections arising solely from a customer's inability to pay for his/her energy bills. The payment plan success rate indicator should be seen with the other indicators such as rates of disconnection within 12 months of successfully completing the hardship program, type of assistance provided through hardship program, debt level upon "successful" exit etc.

Customers existing hardship programs

We support the AER's updated proposal at pages 82 and 83.

[19] AER, AER Retail Market Performance Reporting Position Paper (November 2010), at 82.

Disconnection, and subsequent reconnection, of customers previously on hardship programs

The disconnection and reconnection indicators at page 86 of the Position Paper go to the heart of what a retailer's hardship policy is for, that is, "to assist those customers to better manage their energy bills on an ongoing basis."[20] The indicators also demonstrate the level of retailer engagement with the customer. If the customer's previous experience with the retailer was positive, it is more likely that the customer will contact the retailer rather than be disconnected.

We recognise that customers' personal circumstances will change and they may find themselves in financial hardship after successfully completing the hardship program. However, customers who successfully exit the hardship program or who exit by agreement with the retailer should be in a better position to manage their ongoing energy bills. Therefore, it is reasonable to expect a relatively low number of disconnections within 12 months of successfully exiting the program or exiting with the retailer's agreement.

We strongly support the AER's updated proposal at page 86 of the Position Paper. However, the wording of the indicators should include customers who successfully completed the program as well as those who exited with the agreement of the retailer. This would make it in line with paragraph 4.7.3 of the Position Paper which refers to "those who successfully completed the program or exited with the agreement of the retailer." The proposed indicators at page 86 of the Position paper should be amended to:

> Number of residential customers disconnected for non-payment of a bill during the reporting period who successfully completed the hardship program *or exited with the agreement of the retailer,* in the previous 12 months.
>
> Number of residential customers who successfully completed the hardship program *or exited with the agreement of the retailer,* in the previous 12 months, who were reconnected in the same name and at the same address within seven days of disconnection.

Assistance provided through hardship programs
Case studies

We support the AER's updated proposal at pages 87 to 88 of the Position Paper.

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

Distributor Performance Reporting

Performance of distributors by reference to distribution service standards and GSL schemes

We note that the AER will, in reporting on the above, rely on information provided to the jurisdictional regulator responsible for administrating and enforcing the distribution service standards and GSL schemes. We support this position until such time as jurisdictional responsibility for the administration and enforcement of distributor service standards and GSL schemes are transferred to the AER. CUAC welcomes the opportunity to participate in the consultations on the development of the requisite reporting requirements at that time.

Performance of distributors in relation to the small compensation claims regime

We note that the AER will initiate consultation on appropriate performance indicators for each compensation regime as its scope and application is determined. We reserve our comments till then.

Thank you for the opportunity to comment on the Position Paper. If you have any queries, please contact the undersigned.

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