AER Position Paper

Retail Market Performance Reporting

QCOSS Submission

December 2010

queensland council of social service inc

WORKING FOR A FAIR QUEENSLAND FOR 50 YEARS

About QCOSS

Queensland Council of Social Service (QCOSS) is the peak body for over 600 welfare and community sector organisations in Queensland. For over 50 years QCOSS has worked to promote social justice and exists to provide a voice for Queenslanders affected by poverty and inequality. We act as a State-wide Council that leads on issues of significance to the social, community and health sectors. We work for a Fair Queensland and develop and advocate socially, economically and environmentally responsible public policy and action by community, government and business.

Queensland Mines and Energy (QME) and the Queensland Department of Justice and Attorney-General (DJAG) have funded QCOSS for an energy consumer advocacy project in Queensland. The objective of the QCOSS Energy Consumer Advocacy Project is to examine and provide input into Queensland Government energy policies and where relevant the relationship to national energy policy, with a particular focus on the needs of low income and vulnerable households.

QCOSS also attracts funding for specific energy projects which can inform our consumer advocacy. One such project funded for 2010 is on "Hardship indicators and performance reporting - ensuring best practice outcomes for consumers in AER guidelines". This project is funded by the Consumer Advocacy Panel (www.advocacypanel.com.au) as part of its grants process for consumer advocacy projects and research projects for the benefit of consumers of electricity and natural gas. The views expressed in this document do not necessarily reflect the views of the Consumer Advocacy Panel or the Australian Energy Market Commission.

This submission is based on the ideas and information generated through the project, including from consultation with consumer organisations in various jurisdictions. The work has benefited from the advice and input of the project Steering Committee which comprises the Consumer Utilities Advocacy Centre, Public Interest Advocacy Centre, Wesley Uniting Care, Consumer Action Law Centre, and the St Vincent de Paul Society. However, the views and recommendations in this submission are those of QCOSS.

For any questions or enquiries regarding this submission, please contact Linda Parmenter at QCOSS on (07) 3004 6900 or by email on lindap@qcoss.org.au

1) Introduction

Under the National Energy Customer Framework (NECF) for regulation of the energy retail market, the Australian Energy Regulator (AER) will take the main role in regulation of energy retailers. One of the AER's functions is the administration of a national performance regime, including the development of AER Performance Reporting Procedures and Guidelines ('the Performance Reporting Guidelines') and national hardship program indicators. The Performance Reporting Guidelines will specify the information and data that regulated entities must report to the AER.

The AER has commenced preliminary consultation with stakeholders on the AER's approach to performance reporting and the development of the Performance Reporting Guidelines. The AER has previously released two Issues Papers, covering Hardship Program Indicators and wider Retail Market Performance Reporting. The AER felt that hardship program indicators should initially be consulted on separately. QCOSS made submissions to both Issues Papers.

The AER has now released a Position Paper on Retail Market Performance Reporting ('the Position Paper'). The Position Paper outlines the AER's response to submissions received to both Issues Papers and provides an updated proposal on the AER's approach to performance reporting, national hardship program indicators, and the wider performance indicators.

This document is the QCOSS submission in response to the Position Paper. There are two parts to our submission:

- general comments about the performance regime, and
- specific comments about the proposed indicators.

In making this submission, we are mindful of earlier consultation, and that we have already provided detailed submissions to both Issues Papers. Our comments are therefore focussed where we feel we need to provide an additional response.

We welcome the ongoing consultation opportunities the AER is providing to stakeholders to allow them to contribute to the development of the AER's various functions, including performance reporting.

We note that there may be additional opportunities for preliminary consultation on performance reporting before the formal consultation begins. However, the form and extent of any additional preliminary consultation is not yet known.

2) General comments about the proposed performance regime

i. *Policy principles for hardship programs and hardship program indicators*

We note that some retailers have suggested that we need a policy discussion about what a hardship program should be for and what this policy means for hardship program indicators. The argument is that the original intent of hardship programs was to assist customers in hardship to avoid disconnection, and we have moved beyond that scope in the NECF without having a policy discussion.

However, we argue that a policy discussion has already taken place through the development of the national customer framework. Two clear policy principles were outlined during development of NECF:

- the purpose of a retailer's customer hardship policy is to assist customers in financial hardship to better manage their energy bills on an ongoing basis; and,
- a retailer must give effect to the general principle that disconnection of the premises of a customer in hardship due to an inability to pay energy bills should be a last resort option.

The first policy principle clearly allows for a wider scope for hardship programs and hardship program indicators than avoiding disconnection alone. This wider scope was also supported by the proposed minimum requirements for a hardship policy and the outline of national hardship indicators. We note that these elements have been retained in the Retail Law and the Retail Rules.

We believe that the proposed hardship program indicators are supported by the policy principles and provisions in the NECF. The most contentious of these indicators are whether customers on a hardship program are able to match payments to ongoing energy costs, and the rate of disconnection 12 months after customers successfully exited a hardship program. We believe that both types of indicators are supported by the policy principle of "assisting customers to better manage their energy bills on an ongoing basis", and we strongly support their retention.

ii. *Frequency of reporting*

We note that some retailers are advocating for annual or six-monthly reporting. We do not support this view, but instead support the approach from the Position Paper.

To begin, we make a distinction between:

- the reporting period
- the frequency of public reporting by the AER, and
- the resulting frequency of reporting by retailers to the AER.

We support the indicator reporting periods in the Position Paper, with a quarterly reporting period for most indicators. Quarterly data is a sensible balance between the cost of collection and having sufficient data points to identify both short term variations and the longer term trend. In some cases, short term variations have greater significance to consumers and monthly indicator data is warranted (such as disconnections, payment plans, and the hardship program). On the other hand, annual or six monthly data would not allow short term variations to be identified. Any 'noise' in annual data would also make it difficult to determine longer term trends. As such, we would not support the use of longer reporting periods for most of the indicators.

As we have mentioned in all our previous submissions, we strongly support the proposal from the AER to release quarterly public reports. This in turn will require retailers to report some data to the AER on a quarterly basis.

We support quarterly public reporting since it provides more opportunity for advocacy on behalf of consumers and therefore more opportunity to encourage a meaningful response from retailers. We believe that a critical role for performance reporting is to encourage a response from retailers. We also believe that for indicators like the success rate for customers on payment plans, the extent of customers receiving assistance, or changes in customer debt levels, the time lag from annual reporting is too long. Without timely public data and the resulting opportunity to advocate, consumers are reliant on internal responses from retailers. We believe it is preferable to supplement this internal response from retailers with the encouragement from more frequent public reporting of data.

iii. Ongoing research program and case studies

We strongly support the proposal for a targeted essay or case study in each energy affordability report. We believe that detailed analysis of a single area of energy affordability is likely to be very useful, as illustrated by the suggestions listed in the Position Paper.

However, we would like the AER to also commit to an annual research project in addition to the one for energy affordability. This was our view in our submission to the Issues Paper and we would like to re-state it here. Our submission noted that there are limits to what indicator data can highlight, and an annual research project could help fill in the gaps. Our concern is that without a commitment to an annual research project it will be too easy to put off conducting additional research. There are benefits to the energy market from identifying and developing solutions to problems early and we would like to see these benefits realised.

We note that the Position Paper suggests several areas where additional examination may be required, or where certain trends or values might prompt further analysis. There is clearly a range of research and analysis work that would benefit the performance regime and we would much prefer an annual program than one operating on an ad hoc basis. In particular we would like to see a review to examine whether more spatial detail in the public reporting would be valuable.

We also support the proposal to allow retailers to voluntarily submit anonymous case studies from their hardship programs to reflect good practice. Reporting on positive outcomes should be encouraged. However, we would like to see the opportunity for non-retailers like financial counsellors to also submit case studies of good practice from their perspective.

iv. Providing comment on data that will not be publicly reported

We note that there are data sets that the AER will receive where the data will not be publicly reported (such as AEMO postcode data) or will be aggregated for all retailers (such as energy debt). We accept this approach for the data in question. Our concern is with the view expressed in the Position Paper that additional information or comment will be provided only if particular trends or differences are observed.

Our problem is that a lack of comment in the public report could imply either no examination or analysis of the data, or an examination of the data revealed no trend or pattern that warranted further comment. Since there is a clear difference between these two implications, we believe the AER should make it clear in the public report if the data has been examined or not. If the data has been examined, then a comment should be provided on whether trends or patterns were detected in the data.

v. Include contextual data from other sources in the annual public report

We believe that as a general principle the AER should include contextual information or performance data from other sources in the annual report where that data will add value to the performance reporting.

A good example would be data on complaints. We note that the AER considers that comparing retailer complaint data with data from jurisdictional energy ombudsmen would be worthwhile, and is liaising with the energy ombudsmen on how best to do this comparison. We agree this would be of value, and recommend including the comparison in the public performance report rather than referring the reader to the energy ombudsmen. (We suggest that the energy ombudsmen also consider reporting the retailer performance data alongside their own data).

We also refer later in this submission to including an estimate (made by the AER) of the number of residential customers who are supplied through an exemption. Such an estimate would certainly provide meaningful context to the retail market overview. If it was included the public would not have to sort through the list of exemptions themselves.

We also suggest including data on retailer performance against compliance in the performance reports. We note that the compliance and performance reports may be combined into a single release. However, we feel that reporting some compliance data alongside the indicator data would be of value. In particular, reporting the extent of disconnections where the retailer should not have arranged for the disconnection would add value to the rest of the disconnections data.

Finally, in our previous submissions we argued for the inclusion of average residential energy consumption in the performance reports. We believe this would be very relevant contextual data. We note from the Position Paper that some measure of consumption will be used in the energy affordability report, and the most likely source will be distributors. We also note the ongoing development of the energy bill benchmarking regime which should provide relevant data. Irrespective of the source, average residential energy consumption should be included in the performance reports.

3) Comments related to the proposed performance indicators

We support the performance indicators listed in the Position Paper. However, we recommend that the billing and notice path indicators should also be included. Our response to Question 29 of the Issues Paper on Retail Market Performance Reporting has a list of these indicators and a brief discussion. We repeat the list of indicators here:

- 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 believe that these indicators would add further value to the reporting regime. We again state that changes over time in where customers pay in the billing path will indicate changes in both the broader energy retail market (at an aggregate jurisdictional level) and examine the relative effectiveness of retailer engagement with customers (on a retailer by retailer basis). For example, we argue that an increase in the trend of the aggregate number of customers delaying payments will indicate underlying changes in the energy retail market and be a leading indicator of customers in payment difficulties. On a retailer by retailer basis, if some retailers have relatively higher rates of customers paying earlier in the path, this would be an indication of retailers who more effectively engage with customers.

We recognise that the AER has to balance the cost and benefits of the overall set of indicators. While we certainly would not like to see any of the indicators from the Position Paper removed, we believe there is sufficient extra value to consumers from the billing and notice path indicators that they should be added to the overall set.

However, there have also been a number of improvements made to earlier proposals. In particular, we strongly support the inclusion of:

- indicators on the number of customers using Centrepay
- the additional indicators on payment plans
- the additional indicators on PPMs, including customers on an energy concession, customers with a PPM that can detect and report a self disconnection, and the additional indicators on duration of self-disconnection which will be useful when judging the extent of payment difficulty or hardship
- a quarterly reporting period for security deposits rather than annual, and
- the hardship program indicators around customer payments meeting energy costs.

i. *Some contentious indicators from the Position Paper*

Indicators around the proportion of hardship program customers where customer payments are covering or exceeding ongoing energy costs.

- we strongly support a version of these indicators since they are the only ones in the entire set that incorporate energy consumption costs, and they go directly to the purpose of a retailer's customer hardship policy in the Retail Law, namely "to assist those customers to better manage their energy bills on an ongoing basis"
- however, we recommend not incorporating the notion of "debt" into the indicators
- "debt" has something of a negative connotation, and we also argue that changes in the level of debt are a natural result of meeting ongoing energy costs
- we therefore recommend reporting against "meeting costs" rather than against "changes in debt"
- we also recommend only listing in the public report indicators for customers who are able to meet their costs of consumption
- as a general rule with the hardship program indicators, we prefer reporting on more positive outcomes; the other outcomes can still be derived from the data, and how things are publicly reported does influence perception
- in this specific case, we expect that customers new to the hardship program will be unlikely to be able to meet ongoing costs and will have increasing debt; these customers should not be expected to be able to meet energy costs immediately
- therefore it will be somewhat misleading and negative to report these customers
- given the above, we recommend the two indicators we proposed in our submission to the Issues Paper:
    - # of customers where payments made during the period covered estimated or actual consumption costs
    - # of customers where payments made during the period covered estimated or actual consumption costs plus a component of debt.
- we also believe that 'payment' should refer only to payments made by the customer and not include incentive payments made by the retailer.

Number of residential customers disconnected for non-payment of a bill who successfully completed the hardship program in the previous 12 months.

- we support this indicator, and believe there are two strong arguments for it's retention
- firstly, this would be an indicator of the effectiveness of retailer engagement with the customer including the ease of access to assistance
- we accept that customer circumstances will change and there may be new causes that might prompt payment difficulties
- however, if their previous experience with accessing the hardship program was positive (they feel they will be able to access help), and their experience in engaging with the retailer during the program was generally positive, we should expect the customer will choose to engage with the retailer (or seek other help) rather than be disconnected
- therefore, there should be relatively few disconnections within 12 months
- secondly, the indicator goes directly to the purpose of a retailer's customer hardship policy "to assist those customers to better manage their energy bills on an ongoing basis"
- if customers who successfully exit the hardship program are in general better able to manage ongoing energy bills, there should be relatively few disconnections within 12 months

Number of residential customers disconnected for non-payment of a bill who were on a payment plan in the previous 12 months / Number of customers disconnected for non-payment on more than one occasion in the same name and at the same address in the previous 24 months.

- we believe that both of these indicate the extent of customers in ongoing payment difficulty, and are also a measure of customer vulnerability
- the rationale for reporting these indicators is to encourage retailers to be proactive in providing assistance to such customers, and to help ensure that disconnection for non-payment for these customers is a last report option
- changes in the trend, either in aggregate for a jurisdiction or by retailer, would be a cause for further examination, and
- any variations between retailers will be an indicator of how effective (or ineffective) the customer engagement and assistance was.

ii. Customers supplied through an exempt seller

In our previous submission we raised the problem of small customers connected to the grid who are supplied by an exempt seller. We saw this as a problem because these small customers are not reported in the retail market overview even though they are clearly part of the retail market. We note the response from the AER in the Position Paper that the Performance Reporting Guidelines are binding only on regulated entities. Therefore, since exempt sellers are not regulated entities and the guidelines are not binding on them, the AER proposes not to report on customers supplied by exempt sellers.

We agree that the AER is not in a position to require exempt sellers to report through the Performance Reporting Guidelines. However, the AER has responsibility for issuing retail exemptions and will have access to the most complete data on retail exemptions. The AER should therefore be in a position to make a reasonable annual estimate of the number of residential customers connected to the National Energy Market who are supplied through an exemption. We strongly believe that this estimate should be reported alongside the other retail market overview data.

We again make the point that if there is information available that adds to the indicator data, this information should be included in the public reports. In this case, not reporting on residential customers of exempt sellers provides a distorted view of the retail market that is likely to get worse. As the Issues Paper on the AER's approach to retail exemptions states:

> "In recent years there has been an apparent increase in the number of customers who purchase their energy from an onseller, particularly within large residential developments."

We believe this trend is likely to continue given the ease and cost effectiveness of onselling, and the planned increases in residential density for our major cities which will require large scale residential complexes. In turn, these large scale complexes favor the use of the onselling approach. An estimate of the number of residential customers supplied through an exemption should be included in the public reporting to give a more accurate retail market overview.

iii. Definitions for some indicators

This section raises specific points about the definition of some of the indicators, including discrepancies between the body of the Position Paper and Appendix A to the Position Paper.

Number of customers disconnected for non-payment

- we support the proposal to exclude from the data those premises that were found to be vacant or with a new tenant at the time of attempted disconnection; the indicator is about the impact on customers of being disconnected, and with these premises no customer would be disconnected
- however, we note that page 42 of the Position Paper refers to both vacant premises and new tenants, while the definition in Appendix A refers only to vacant premises.

Number of residential customers on a payment plan

- we support the view put forward in the stakeholder forum of 26 November 2010 that the arrears component for payment plans should refer to any overdue payment and not be restricted to historic debt (debt that is > 90 days overdue)
- we recommend that the payment plan indicators clearly refer to the number of customers rather than the number of plans (we agree that the appropriate measure is customers, not plans)

- the indicators listed on pages 36 and 37 of the Position Paper refer to the number of residential customers; however, Appendix A refers to “number of payment plans successfully completed” and “number of payment plans cancelled by the retailer”.

Concessions

- the definition for this indicator should clearly exclude customers who only receive a one-off grant or one-off subsidy administrated by the retailer
- we believe that this indicator should be measuring customers receiving an energy concession that is intended to be ongoing or recurring

Average debt upon entry into the hardship program

- we accept the proposal to measure debt on entry as at the last day of the month of entry

Customers who are managing their payment plans (i.e. the retailer considers that the customer is making payments)

- we accept the view of the retailers that this indicator can be judged by each retailer rather than be subject to a consistent definition
- we note that a positive outcome for a customer would include a situation where the customer is not making payments at all because of short term problems, but the customer has been engaging with the retailer and the retailer accepts the customer’s position
- this indicator needs to capture such an outcome
- if a consistent definition between retailers will not capture the outcome, we recommend allowing retailers to make a judgement
- however, this is based on the assumption that the indicators around customer payments meeting ongoing energy costs are also included

Assistance provided to hardship program customers

- we support the voluntary reporting of assistance available and provided to hardship program customers
- however, we recommend that the guidelines are clear that any limitations to the assistance measures also must be reported
- we are wary of the reporting of pilot programs or similar where some hardship customers are not able to access the assistance.