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16 August 2010

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

AER Consultation – Retail Market Performance Reporting

AGL Energy Limited (**AGL**) welcomes the opportunity to provide comments on the *Issues Paper: Retail Market Performance Reporting* ('the **Issues Paper**') published by the Australian Energy Regulator (**AER**) in June 2010.

AGL recognises the importance of performance reporting to enable the AER to form a view on the state of the retail energy market. In recent years, AGL has invested in extensive IT system changes to comply with the reporting requirements of the various jurisdictional regulators. We now look forward to working co-operatively with the AER to develop an efficient and appropriate national reporting framework which will satisfy the AER's aims, without imposing unnecessary cost burdens on retailers.

In this submission, AGL has addressed all of the questions raised in the Issues Paper. However, our primary area of concern is in relation to the proposed energy affordability report.

While we understand that the draft Retail Rules requires the AER to include a report on energy affordability, AGL considers that the scope of the report should be limited to matters which are reasonably within the remit of an energy regulator. Furthermore, the development and publication of an 'affordability benchmark', as advocated by consumer representatives at the recent AER Forum on this Issues Paper, is not something AGL would support. In our view, the AER should not be developing social policy such as this – rather, social policy should be developed by government, in consultation with industry and community.

In addition, and as highlighted in previous submissions, transitional arrangements must be determined in consultation with industry to avoid unnecessary confusion, cost and duplication during the move towards a national reporting regime.

A summary of AGL's key concerns is provided in Attachment A and Attachment B tables specific responses to each of the questions raised in the Issues Paper. Should you require clarification of any of the points raised in this submission, please contact Anna Stewart, Manager Regulatory Policy and Strategy, on 03 8633 6830.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Alex Cruickshank'.

Alex Cruickshank,
Head of Energy Regulation

- > Being selected as a member of the Dow Jones Sustainability Index 2006/07
- > Gaining accreditation under the National GreenPower Accreditation Program for AGL Green Energy®, AGL Green Living® and AGL Green Spirit
- > Being selected as a constituent of the FTSE4Good Index Series

1. Proposed approach to frequency of reporting

Generally, it appears that the AER is proposing quarterly reporting for the majority of metrics. AGL considers that such frequent reporting will impose a significant cost burden on retailers, as well as the AER, and may distort the AER's view of the state of the energy retail market.

Data viewed on a quarterly basis may not provide an accurate picture of the market due to changes occurring in the short-term, such as retrospective transfers and billing adjustments. However, when the same set of metrics is viewed on an annual basis, the potential for 'skewed data' is reduced and a clear picture based on more reliable underlying data emerges. Accordingly, AGL submits that annual reporting of most measures would be preferable.

In cases of under performance, or where closer monitoring of the market is warranted, the AER may choose to increase the frequency of reporting.

2. Proposed approach to key metrics

A number of the proposed metrics are currently being reported to jurisdictional regulators and AGL supports the AER's proposal to review these metrics as detailed in the Issues Paper. Reportable metrics need to be clearly defined and the purpose behind the collection of the information should be justifiable and cost effective. A metric definition dictionary would be of assistance to ensure that definitions are applied consistently across the industry. Further comments on specific metrics are tabled in Attachment B.

While there may be requests for a number of additional metrics from some stakeholders, AGL urges the AER to consider a cost-benefit approach when reviewing these requests. AGL takes its reporting obligations very seriously. Consequently, considerable costs are attached to the development of a new metric for reporting, including costs for designing queries, testing data, system changes and user training. These costs are ultimately passed on to consumers, therefore it is incumbent on the AER to assess the usefulness and relevance of each metric before it is introduced. Simply because some data may be 'nice to know' is not justification enough for its collection.

It should be recognised that there is a lead time required for metric development and, as such, retailers will require sufficient notice to be able to report on any new metrics. Transitional arrangements need to be clarified so as to ensure that any overlap of reporting between jurisdictional regulators and the AER is avoided.

In the case of information deemed to be commercially sensitive, data should be aggregated to be non retailer specific. Where metrics reported by retailers are provided publicly, AGL submits that retailers be provided with the opportunity to comment on the context of the data. There are some instances where data provided without commentary can be misconstrued and taken out of context, potentially causing irreparable damage to reputation. The AER should also recognise that performance reporting should not be confused with levels of compliance. For example, having a number of customers with high debt levels may not necessarily indicate that the retailer is non compliant or underperforming in this area - rather it may be a broader reflection on the state of the economy or a reflection of the demographics of the retailer's customer base.

3. Energy Affordability

AGL understands that the draft Retail Rules provide for a report on energy affordability as part of the retail market overview. We have serious concerns, however, with respect to the potential scope of the report. It is unclear what the ultimate purpose of the report is and how any findings in it may be used to inform regulatory policy and development.

The AER is first and foremost an energy regulator, and as such, we would expect that any data collected from retailers would primarily be used to assess performance against regulatory obligations. An annual report which potentially 'considers not only the relationship between energy prices and consumption, but also income levels and competing demands on customer income', sounds far broader in scope than what could reasonably be expected to be produced by an energy regulator.

Any meaningful report on energy affordability is far more appropriately produced by an organisation such as the Australian Bureau of Statistics (ABS) or a federal/state government department with expertise in social policy analysis. Comprehensive reports covering the many and varied factors involved in assessing energy affordability are already produced by both the ABS (for example, the Household Expenditure Survey) and the Victorian Department of Human Services (see the Victorian Household Energy Consumption Survey). These reports acknowledge that energy is but one of a number of products and services competing for attention within the household budget – in fact, the ABS report looks at average weekly expenditure in relation to more than 600 goods and services.

Accordingly, AGL submits that the AER's energy affordability report should be based on the following principles:

- the report should be produced no more frequently than annually. As the AER acknowledges in the Issues Paper, it is 'unlikely that meaningful trends in affordability will be revealed within a reporting year'. Frequent reporting will not allow adequate analysis of external policy impacts on energy affordability, such as the introduction of carbon pricing. The household expenditure surveys mentioned above are produced infrequently, yet this does not diminish their usefulness as a source of reliable and accurate data on household spending ;
- energy affordability is impacted by a number of critical factors, including (but not limited to) – household size, type of dwelling (size, thermal efficiency, quality and number of household appliances), seasonal variations, household income and debt levels, the stage of life of the home's occupants (for example, are there elderly people at home all day consuming energy?), energy consumption patterns and fuel type (all electric or dual fuel house). The AER does not have the capacity, nor should it be required, to gather all of the information relating to these factors and as such, the limitations of the report need to be explicitly recognised;
- given these limitations, the report should simply focus on the cost of energy, for domestic households only, and should not attempt 'to provide definitive comment on whether energy is affordable or not.' Such a report would, in our submission, be beyond the AER's scope and expertise.

Cost of energy

AGL would strongly oppose the cost of energy being measured by reference to the actual cost of energy consumed over a defined period (total sales revenue of retailers divided by total consumption). This would involve the provision of commercially sensitive information by retailers, and also has the disadvantages listed in the Issues Paper.

AGL considers that the AER should base its estimates of energy costs on a range of available contracts in the market – both standard offer tariffs and a sample of market offer tariffs (assuming that the market offer tariffs are already being provided to the AER for the purpose of developing the price comparator). We would not support the inclusion of all market offers and submit that a sample of widely available offers for each different tariff structure (i.e. flat, peak/off-peak and time-of-use) would be sufficient in terms of providing an indicative energy cost. The standing and market offers tariffs should not be combined, as doing so could confound the analysis, given that certain products, such as green offerings, attract a premium which the customer chooses to pay. How the AER then uses this range of prices in the context of consumption patterns is fraught with difficulties. There is simply no such thing as the ‘typical customer’. Having said this, the most efficient solution may be to use the customer consumption benchmarks developed as part of the national energy bill benchmarking (NEBB) provisions. There seems little point in the AER developing its own data sets in this context, given that any set of consumption profiles can only ever be indicative. At least if the NEBB data is used, there will be a degree of consistency.

Capacity to pay

AGL is of the view that the AER should only be addressing capacity to pay at the highest level, given that to go further (for example, matching energy cost data with income data) would be unnecessarily complicated and best left to organisations like the ABS. Accordingly, we consider it would be appropriate for the AER to measure the proportion of total income spent on energy costs by reference to income quintiles published by the ABS. Further insight on the cost of energy relative to other goods and services could be gained by an analysis of other standard indexes such as the Consumer Price Index. This would at the very least provide an indication of the proportion of household income spent on energy, relative to other goods and services.

AGL submits that only domestic households should be considered in the energy affordability report. We can see no reason to include small business customers in the analysis. Energy is simply one of the many costs of doing business and should be viewed no differently to any other business input.

Case studies

While AGL sees the value in case studies in terms of providing a ‘human face’ to the experience of customers facing hardship, AGL does not consider it appropriate for the AER to include case studies in its energy affordability report. Case studies are generally gathered through casework undertaken by financial counsellors and other community support workers, and tend to focus on the experience of a minority of households. The inclusion of case studies may distort the focus of the report and import a degree of emotiveness which is better placed in research reports undertaken by social policy organisations. While we have supported case studies being provided by retailers in the context of hardship policy performance, case studies focussed on energy affordability would be of little value in respect of measuring overall energy affordability.

4. Hardship Indicators

AGL reiterates its view that most of the proposed National Hardship Indicators are not comparing retailers’ performances against their regulatory obligations but are information gathering tools to form social policy. AGL has indicated that it is willing to participate in any social policy review that may influence governments to provide better assistance to vulnerable members of the community. AGL believes, however, that an MCE-endorsed review by the AEMC is likely to be more efficient and yield better results than regular reporting against social policy indicators that do not assess retail performance.

For indicators that measure a retailer’s performance against its regulatory obligations, AGL is comfortable with comparative data to be published if retailers are given the opportunity to review a draft report to ensure the accuracy of any assumptions made.

Attachment B



AER Questions	AGL Response
Retail market overview	
Number of retailers and active retailers	
<i>Q 1. Is the definition of 'active retailer' proposed in this section appropriate for the purposes of the retail market overview?</i>	AGL believes that the proposed definition of an active retailer is appropriate.
<i>Q 2. How frequently should the AER report on the number of (i) authorised retailers? (ii) active retailers?</i>	An annual report would be sufficient.
<i>Q 3. Is it appropriate for retailers to report whether they are actively selling energy in a particular jurisdiction or to a particular customer category on an 'exception' basis, by reference to an initial statement of activity?</i>	AGL supports reporting on an exception basis in this instance.
Number of customers	
<i>Q 4. How should the number of customers of each retailer be measured for the purposes of the retail market overview? (e.g. by reference to registered metering points or the number of customer contracts)</i>	For consistency in industry and market data, reporting the customer numbers based on customer contracts is preferred. However, it should be recognised that this metric may require system development.
<i>Q 5. What level of detail on the number of customers a retailer has in each customer category should be included in the retail market overview?</i>	This is commercially sensitive data and although the AER has proposed reporting based on the percentage of market share of retailers by reference to the total number of customers in each category in a particular jurisdiction, this metric has the potential to be misinterpreted in the market in relation to competition.
<i>Q 6. How frequently should this information be reported? (e.g. quarterly, six-monthly, annually)</i>	An annual report would be sufficient.
Number of customers with standard and market retail contracts	
<i>Q 7. What customer categories are relevant for the purposes of comparing the number of customers on standard and market retail contracts?</i>	Residential and business customers categories are relevant.
<i>Q 8. How frequently should this information be reported to the AER? (e.g. quarterly, six-monthly, annually)</i>	An annual report would be sufficient.

AER Questions	AGL Response
<p><i>Q 9. How might the number of customers on standard and market retail contracts reflect on retailer performance? On the retail market?</i></p>	<p>A range of the market contracts generally available can be found through retailer's websites and on-line comparator websites. Therefore, using this metric as an indication of whether the benefits of competition in the market are extending to the most vulnerable customers, is a weak proposition.</p>
Customer transfers between retailers	
<p><i>Q 10. Is it appropriate to use transfer data from AEMO to inform this section of the retail market overview?</i></p>	<p>AGL does not oppose the use of transfer data from AEMO.</p>
<p><i>Q 11. Is there value in identifying the number of customer transfers within particular customer categories? If so, which categories (residential, small business or large business) are relevant?</i></p>	<p>AGL considers that there is more value in identifying the number of customer transfers within the residential and small business market due to greater volatility in this customer category.</p> <p>Transfer numbers in the large customer segment is not particularly relevant given this market operates differently and is primarily based on individual contract agreements.</p>
<p><i>Q 12. How can data on the number of customers transferring between retailers inform a discussion of retail market performance?</i></p>	<p>AGL believes that this metric provides a high level insight into consumer participation in the market and, therefore, the effectiveness of competition.</p>
<p><i>Q 13. If transfer data is collected from AEMO and from retailers, what considerations are relevant to an interpretation of overall trends in customer transfer data?</i></p>	<p>AGL would prefer for transfers data to be provided by AEMO, given that if the data is provided by retailers it would still be subject to the same limitations as set out in the Issues paper.</p>
Energy affordability	
<p><i>Q 14. How can the relationships between energy prices, energy consumption and available income be interpreted in the context of energy affordability?</i></p>	<p>These questions have been addressed in Attachment A.</p>
<p><i>Q 15. What factors should inform that interpretation, and how?</i></p>	
Energy affordability – Possible sources of information	
➤ Cost of energy	
<p><i>Q 16. Which approach provides the most valuable indication of cost for the purposes of assessing energy affordability? Are there other approaches to the estimation of energy costs that the AER should consider?</i></p>	<p>As above</p>
<p><i>Q 17. If the estimation of energy costs is to be based on assumed consumption profiles for 'typical' customers, what customer groups can be reliably identified for this purpose?</i></p>	

AER Questions	AGL Response
<p><i>Q 18. If the estimation of energy costs is to be based on available contracts in the market:</i></p> <p><i>(a) Should the assessment of energy affordability for small customers be limited to standing offer tariffs, or should market offers be included?</i></p> <p><i>(b) If standing and market offer tariffs are included, is there value in separating the two for the purpose of reporting on affordability?</i></p> <p><i>(c) Should all market offer tariffs be included in our assessment, or would a sample be sufficient?</i></p>	As above
<p>Energy affordability – Possible sources of information</p> <p>➤ Capacity to pay</p>	
<p><i>Q 19. What other data sources are available to the AER to assess customers' capacity to pay for energy?</i></p>	As above.
<p><i>Q 20. Is it appropriate for the AER's energy affordability reports to include information on affordability for business customers? If so, what sources of annual revenue data for business customers could the AER draw on?</i></p>	
<p>Energy affordability – Possible sources of information</p> <p>➤ Case studies</p>	
<p><i>Q 21. Would case studies on customers' experience of energy affordability be valuable to stakeholders?</i></p>	As above.
<p><i>Q 22. What should such case studies focus on?</i></p>	
<p>Reporting requirements</p>	
<p><i>Q 23. Is publication of quarterly retail market overviews appropriate, or is less frequent publication (e.g. six monthly, annual) of some or all indicators preferable?</i></p>	AGL considers that an annual retail market overview would be sufficient. Quarterly publication would lead to a constant cycle of reporting, the need for which has not been demonstrated.
<p><i>Q 24. Is the publication of a single, annual energy affordability report appropriate, or is more frequent publication (e.g. quarterly, six monthly) of some or all aspects of the report preferable?</i></p>	As stated in Attachment A, AGL is firmly of the view that an energy affordability report should be produced no more frequently than annually.
<p><i>Q 25. What are the costs and benefits of breaking data for the various indicators in the retail market overview into shorter intervals within a reporting period (e.g. monthly)?</i></p>	Those metrics proposed by the AER which are not currently captured in some jurisdictions will have to be designed and built within the existing systems. This will entail significant cost, time and resources for the business. For example, transfers without consent are currently reported only in SA and VIC, therefore AGL would have to build capability in this area to report this in all states. As noted earlier in this submission, the rationale for providing data must be made out, given the cost implications.

AER Questions	AGL Response
<p><i>Q 26. What concerns, if any, do you have regarding the ability to report data against the proposed indicators, and any costs associated with the reporting requirements?</i></p>	<p>The AER should note that the development of any metric poses additional costs that are eventually borne by consumers. Hence, it is critical that the AER assess the importance and use of each metric prior to making it a reporting requirement. For example, the number of customers that pay by direct debit is not required in NSW and QLD. Building this functionality would come at a cost, and as credit cards/direct debits are now used more for customer convenience, there would be limited value to providing this metric with respect to drawing any conclusions about hardship.</p>
<p>Retail market activities review</p>	
<p>Handling of customers experiencing payment difficulties</p>	
<p>➤ Customers in energy debt and energy debt levels</p>	
<p><i>Q 27. Do you support the inclusion of these indicators to monitor the number of customers in debt and their levels of debt? Which customer categories should be included?</i></p>	<p>Debt level reporting is not currently required by any of the jurisdictional regulators. AGL does not support the provision of this metric as we do not consider debt levels are necessarily an indicator of retailer performance. Debt levels may be indicative of external factors, such as the economic climate, and some retailers may have a high percentage of customers located in disadvantaged areas. We also oppose the inclusion of this information on the basis that debt levels are highly commercially sensitive.</p>
<p><i>Q 28. Is the proposed definition of 'debt' appropriate for the purposes of the retail market activities review?</i></p>	
<p><i>Q 29. What other indicators should the AER consider to monitor customers experiencing payment difficulties?</i></p>	
<p>Handling of customers experiencing payment difficulties</p>	
<p>➤ Direct debit plans terminated</p>	
<p><i>Q 30. Do you support the inclusion of these indicators?</i></p>	<p>While AGL reports this metric in some jurisdictions, we nevertheless question its value. In our view, direct debit is a payment option many customers choose for reasons of convenience. We therefore query the validity of drawing assumptions about payment difficulties from the number of debits terminated. Debit plans can be terminated for a variety of reasons, including when credit cards expire, or when customers change banks.</p> <p>If the AER intends to report on these numbers, AGL considers that this data should be limited to residential customers.</p>
<p><i>Q 31. What are your views on whether customers on retailers' hardship programs need to be reported separately as part of these indicators (given it is unlikely their payment plans will be terminated whilst on the hardship program)?</i></p>	
<p><i>Q 32. For which categories of customers (in addition to residential customers) should retailers report on direct debit plan terminations? In particular, we welcome views on whether it is appropriate to report on these indicators for small business customers.</i></p>	
<p>Handling of customers experiencing payment difficulties</p>	
<p>➤ Information on payment methods, including Centrepay</p>	
<p><i>Q 33. Do you support the AER's preliminary position not to collect information on payment methods, including Centrepay? Please provide reasons for your answer.</i></p>	<p>AGL supports the AER's intention not to collect information on payment methods, including Centrepay, as this relates to individual customer choice, as opposed to retailer performance.</p>

AER Questions	AGL Response
Handling of customers experiencing payment difficulties	
➤ Payment plans	
<i>Q 34. Do you support the inclusion of these indicators?</i>	The number of customers on payment plans are not necessarily an indicator of retailer performance. For example, a retailer may have offered customers payment plans, but customers, for reasons of their own, may not have chosen this option.
<i>Q 35. What are your views on the definition of a payment plan?</i>	
<i>Q 36. What are your views on reporting payment plan information for different categories of customers — in particular, residential, hardship and small business customers?</i>	
De-energisation (disconnection)	
<i>Q 37. Do you support the inclusion of these disconnection indicators in the areas set out above?</i>	AGL does not object to the provision of the number of disconnections for non payment. However, we suggest that the number of repeat disconnections be limited to the previous 12 months only, as historical information is difficult and costly to obtain.
<i>Q 38. What are your views on monitoring repeat disconnections over a 24 month period?</i>	
Re-energisation (reconnection)	
<i>Q 39. Do you support the inclusion of these reconnection indicators in the areas set out above?</i>	As above, AGL believes that the time period for such metrics should be limited to the previous 12 months. We also note that disconnections and reconnections often reflect on individual customer circumstances, as opposed to retailer performance. Disconnections often occur as a last resort at the end of a comprehensive process during which customers are generally afforded many opportunities to avoid disconnection.
<i>Q 40. How should data and trends from these indicators inform an assessment of retailer performance in this area?</i>	
Concessions	
<i>Q 41. Do you support the inclusion of these concessions indicators?</i>	AGL is of the view that the number of customers receiving concessions is not in itself an indicator of a retailer's performance. If the AER is interested in this data, then it may be best to seek the information directly from the government agencies administering the various concessions.
<i>Q 42. Given that the types and the eligibility for energy concession differ across jurisdictions, what issues might arise when seeking to identify trends in retailer performance at a national level?</i>	
Prepayment meters	
<i>Q 43. What are your views on our proposed approach to monitoring PPM self disconnection rates due to payment difficulties?</i>	AGL would not object to annual reporting but notes that PPMs are often used for holiday homes, and as such, this needs to be understood in terms of analysing the data.
<i>Q 44. What are your views on the other issues raised above in relation to reporting against these PPM indicators?</i>	

AER Questions	AGL Response
Security deposits	
<i>Q 45. Do you support the inclusion of these security deposits indicators?</i>	AGL has made a business decision not to collect security deposits across all states. Accordingly, we have no strong view either way on the inclusion of this metric.
<i>Q 46. What are your views on the timing and reporting issues raised in relation to the indicators?</i>	
Customer service	
<i>Q 47. Do you support the inclusion of these customer service indicators?</i>	All of these of these metrics are currently reported to each of the jurisdictional regulators, and AGL has no objection to continuing to report on these metrics. These indicators are sufficient to draw some inferences as to the quality of a retailer's customer service.
<i>Q 48. What other areas (if any) of retailer customer service might the AER seek to assess?</i>	
<i>Q 49. What are your views on the reporting issues raised in relation to the above possible indicators?</i>	
Complaints	
<i>Q 50. What are your views on the categories of complaints to be included for reporting in this area?</i>	Retailers already report the proposed complaints categories in VIC. However, capturing this data for other jurisdictions will require time consuming and costly system changes.
<i>Q 51. What are your views on collecting complaints data separately for residential and business customers?</i>	
<i>Q 52. What issues arise in relation to defining the complaint types, particularly given the need for consistent reporting?</i>	AGL submits that complaints data should be recorded quarterly and reported annually in order to allow trend analysis.
<i>Q 53. How might the AER effectively compare the data on complaints reported by retailers with that reported by energy ombudsman schemes?</i>	The AER should recognise that the number of complaints to the Ombudsman does not necessarily indicate non compliance or reflect performance in a specific area. Customers complain for a variety of reasons and retailers will frequently settle a dispute in the interests of customer service, even though fault has not been established.
Reporting requirements	
<i>Q 54. What are your views on the reporting requirements considered above?</i>	A number of these metrics proposed by the AER are already information provided to the jurisdictional regulators. However, if other metrics need to be developed and incorporated within existing reporting mechanisms in the business, it is a time consuming and costly exercise. Again, AGL urges the AER to carefully consider which metrics it will collect, to ensure that it only collects that data which will enable it to meaningfully report on the state of the energy market.
<i>Q 55. What concerns, if any, do you have regarding the ability to report against the proposed indicators, and any costs associated with the reporting requirements?</i>	