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Thank you for the opportunity to comment on the AER's *Retail Market Performance Reporting Issues Paper June 2010*.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers.

EWON believes that comprehensive performance reporting is essential for the effective and efficient operation of a competitive energy market. Performance reporting is an important tool that enables the regulator to meet its obligations around consumer protection and market stability. Such reporting also provides the basis for the transparency necessary for an informed consumer to participate in the market with confidence.

EWON notes there have been some objections to data collection proposals on the basis of the potential for misinterpretation. While recognising this issue at the publication point of any single set of data, the real value and substance of such performance reporting is in the identification of trends and patterns over time. The more regular the publication of performance data the less likely it is for misinterpretation to be possible, as discrepancies in any one reporting period can be quickly rectified and explained.

Other concerns have been raised in relation to the cost of reporting to retailers/distributors. EWON agrees with the approach that costs and benefits must be weighed up and justifiable, however we believe reporting costs are part of being engaged in the delivery of essential services. Unlike non-essential services, the effective and efficient delivery of energy and compliance with customer protections in essential service provision is critical for the health and safety of customers, and failures can have extreme consequences.



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If you would like to discuss this matter further, please contact me or Chris Dodds,
Senior Policy Officer on 02 8218 5250.

Yours sincerely

A handwritten signature in black ink that reads 'Clare Petre'.

Clare Petre
Energy & Water Ombudsman NSW

EWON response to the AER Retail Market Performance Reporting Issues Paper, June 2010

We have provided responses to most of the questions in the *Retail Market Performance Reporting Issues Paper*. For ease of reference we have adopted the same numbering as the issues paper.

1 Retail market overview

1.1 Number of retailers and active retailers

Q1. Is the definition of ‘active retailer’ proposed in this section appropriate for the purposes of the retail market overview?

EWON endorses the definition of an active retailer as one who has supplied or marketed energy to customers in a specific jurisdiction in the previous quarter.

Q2. How frequently should the AER report on the number of:
(i) authorised retailers?
(ii) active retailers?

EWON supports quarterly reporting. Quarterly reporting by the AER on the energy market would provide a strong basis for a transparent overview of the energy market focused on market trends. Quarterly reporting will allow for monitoring trends over time, which is critical, and addresses any concerns that reporting can provide a misleading picture. Quarterly reporting also provides a basis for understanding seasonal trends that alternative proposals do not. Our preference would be for retailers to provide data quarterly but broken down into monthly figures.

Q3. 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?

The proposal that retailers provide an initial statement of activity and then notify the AER where their status changes, seems to be an efficient and cost effective mechanism.

1.2 Number of customers

Q4. 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)

EWON supports the AER preference for the number of contracts rather than NMI points, given that there are significant issues identified with using connection points as the measure.

Q5. What level of detail on the number of customers a retailer has in each customer category should be included in the retail market overview?

EWON would prefer that actual customer numbers were reported, rather than percentages. This provides for more transparency and a more complete market picture.

Q6. How frequently should this information be reported? (e.g. quarterly, six monthly, annually)

Where possible, EWON supports a consistent approach to reporting frequency. See our response to Question 2.

1.3 Number of customers with standard and market retail contracts

Q7. What customer categories are relevant for the purposes of comparing the number of customers on standard and market retail contracts?

EWON's view is that the categories of residential, small business and small market offers should be covered. It is important to cover small market offer customers given the reduced protections offered under the National Energy Customer Framework (NECF) and as it will no longer be a requirement to offer these customers access to a standard contract.

Q8. How frequently should this information be reported to the AER? (e.g. quarterly, six-monthly, annually)

Where possible, EWON supports a consistent approach to reporting frequency. See our response to Question 2.

Q9. How might the number of customers on standard and market retail contracts reflect on retailer performance? On the retail market?

In the context of the NECF and especially the proposed requirement that all retailers have a standard contract offering this will be critical information for tracking the effectiveness of the market and the NECF objectives. Further information, as suggested by the AER, such as the details of rebate and hardship numbers might also provide insight to the effectiveness of retail competition for differing customer demographics.

1.4 Customer transfers between retailers

Q10. Is it appropriate to use transfer data from AEMO to inform this section of the retail market overview?

The AER preference for AEMO transfer data has some difficulties (such as a customer moving but staying with same retailer). This is however still valuable information to collect as customers need to enter a new contract when moving address. Also, external reporting provides an objective source of information on market activity.

Q11. 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?

Customer transfers within the categories of residential, small business and small market offers should all be identified. However EWON recognizes that this is information not currently collected by AEMO. If it is possible to gather this information we believe it would provide an insight into distinct patterns of behaviours in differing customer groups.

Q12. How can data on the number of customers transferring between retailers inform a discussion of retail market performance?

This data would be useful in providing information as to the success or otherwise of the competitive market and in monitoring, especially for small market offer customers, the impact of the NECF.

1.5 Energy Affordability

Q14. How can the relationships between energy prices, energy consumption and available income be interpreted in the context of energy affordability?

The NSW Independent Pricing and Regulatory Tribunal (IPART) household affordability surveys have been a valuable contribution to the broad issues of energy and water affordability in NSW. The surveys, combined with data drawn from performance reporting, has enabled stakeholders to participate in policy discussions and debates from a more informed position, as well as informing IPART's regulatory and compliance work. IPART has also undertaken specific studies following energy price rises and relating those rises to government pension income changes thus establishing some links between income and affordability of energy.

Q15. What factors should inform that interpretation, and how?

The AER could use participation rates in the various government assistance programs and the retailer hardship programs as measures of affordability. Another source of valuable information could be the information gathered by the energy ombudsman schemes. Such information combined in an overall affordability report could provide a comprehensive overview of affordability issues which is not currently available.

Cost of energy

Q16. Which approach provides the most valuable indication of cost for the purpose of assessing energy affordability? Are there other approaches to the estimation of energy costs that the AER should consider?

Given that the proposed energy bill benchmarking provisions seem likely to be included in the NECF then the customer/household types and other information gathered in this process may be useful for the estimation of energy costs.

Q17. 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?

Where possible, EWON believes that the AER should use customer 'types' or groups consistent with the NECF provisions and associated activities (such as bill benchmarking as noted in Question 16). Estimation of costs for high, average and low levels of consumption for differing customer groups would provide useful base line information for further analysis.

Q18. If the estimation of energy costs is to be based on available contracts in the market:

- (a) Should the assessment of energy affordability for small customers be limited to standing offer tariffs, or should market offers be included?
 - (b) If standing and market offer tariffs are included, is there value in separating the two for the purpose of reporting on affordability?
 - (c) Should all market offer tariffs be included in our assessment, or would a sample be sufficient?
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In the context of energy affordability reporting market offer tariffs should be included and separated from standing offer tariffs. This reporting would allow monitoring of the effectiveness of the price reporting and comparison provisions in the NECF. This information would also provide valuable consumer information and provide a source of information to assist avoid the situation that arose in the UK where many customers switched onto more expensive tariffs due to a lack of transparency.¹

Capacity to pay

Q19. What other data sources are available to the AER to assess customers' capacity to pay for energy?

Capacity to pay is a complex issue. The AER could engage with practitioners in the area of poverty studies, for example through the Australian Council of Social Services (ACOSS), to ensure that the latest and most relevant data sources and research methodologies are used in this part of the affordability report.

¹ Summary of initial findings and remedies, Energy Supply Probe, Ofgem, Monday 6 October 2008, pg6

Q20. 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?

There is a case for the AER to undertake analysis of affordability issues for small business and small market offer categories of customers, however large business customers generally have either industry associations or their own research facilities and so can effectively address affordability issues on their own.

Case studies

Q21. Would case studies on customers' experience of energy affordability be valuable to stakeholders?

EWON considers the provision of case studies of customer experiences to be of significant value for all stakeholders.

Q22. What should such case studies focus on?

There is value in providing 'good news' case studies and describing innovation through customer experience. Positive energy affordability case studies could also highlight retailers' hardship programs, community welfare organisations' responses and differing government programs and assistance. AER case studies could also identify difficulties in paying for energy that may require systemic responses.

1.6 Reporting requirements

Q23. Is publication of quarterly retail market overviews appropriate, or is less frequent publication (e.g. six monthly, annual) of some or all indicators preferable?

EWON would prefer quarterly publication for the first 24 months of the national NECF regime with a review to assess the value or otherwise at the end of that period. If publication was to be less frequent the issues should still be presented in quarterly breakdowns so that seasonal trends could be factored into analysis.

Q24. 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?

If this report is to be of value it needs to bring together a range of factors, such as those discussed above. Such a report could become a complex undertaking and publication on an annual basis seems appropriate.

Q25. 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)?

The benefits of breaking data down into shorter intervals within a reporting period will be that stakeholders can better note and analyse trends and patterns and also make allowance for seasonal influences.

Q26. 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?

Energy supply is an essential services and retail market performance and affordability are as important as network and generation performance reporting. The costs are essential components in a process of ensuring the efficient and effective delivery of energy services to all customers.

2. Retail market activities review

2.1.1 Customers in energy debt and energy debt levels

Q27. 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?

Energy debt levels are important indicators of retail market activities. The level of debt in the market provides, over time, information relating to affordability of energy. More importantly a significant variation of customer debt levels with an individual retailer could be an early indicator of a potential ROLR event.

EWON is aware of industry concern over the commercial sensitivity of this information, especially for publically listed companies. However, we believe that this information is essential for the AER to properly carry out its monitoring and compliance role. Therefore we suggest that the AER collects this information on a commercial in confidence basis but only publishes an aggregated total, by jurisdiction, for the purposes of publically monitoring affordability.

Customer categories reported on should be residential, small business and small market offer customers.

Q28. Is the proposed definition of ‘debt’ appropriate for the purposes of the retail market activities review?

EWON would endorse the AER definition of debt for the purpose of this indicator.

Q29. What other indicators should the AER consider to monitor customers experiencing payment difficulties?

EWON suggests that the number of customers requesting extensions (as opposed to payment plans) would be a valuable indicator. While the number of customers requesting extensions is not necessarily an indicator of hardship, trends over time would be a valuable indicator of customers’ capacity to pay.

2.1.2 Direct debit plans terminated as a result of default/non-payment

Q 30. Do you support the inclusion of these indicators?

EWON supports the inclusion of these indicators.

Q31. 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)?

EWON believes that retailers reporting on all cancellations of payment plans as a total would be the preferred option in this reporting regime. This reporting is retailer based and should be designed to provide accurate and comparable information. By separating out hardship customers there is the possibility for gaps in the data. The different approaches by retailers to placing customers in hardship programs may affect the collection of this data. Some retailers prefer not to

formally enrol customers if a payment arrangement can be negotiated by the contact centre, while others may have a majority of customers on payment plans enrolled in their hardship program. As well, from EWON's experience it is possible for a payment plan to be cancelled while a customer is a member of a hardship program.

Q32. 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.

EWON believes that the customer classes reported upon should be residential, small business and small market offer customers.

2.1.3 Information on payment methods, including Centrepay

Q33. Do you support the AER's preliminary position not to collect information on payment methods, including Centrepay?

EWON does not support the AER's preliminary position on this issue. Given that the second exposure draft of the NECF had no requirement for retailers to offer a free payment mechanism and the trend in other industries to impose charges on a range of payment methods, EWON would argue that monitoring of all payment methods used by retailers is an important aspect of understanding retail market activities.

Currently in NSW retailers are required to report on Centrepay use. This information (with hindsight) was indicative of some of the issues associated with Jackgreen. In the reporting period 2008-09 it was notable that Jackgreen had an unusually high number of customers using Centrepay - 15% of their customer base (the next highest retailer had only 6.3% while the rest had only between 1-2%)². Combined with other reporting details and an understanding that Jackgreen offered a premium product this should have been an important indicator attracting regulator concern.

² IPART Electricity retail business performance against customer service indicators in NSW, December 2009, pg28

2.1.4 Payment plans

Q34. Do you support the inclusion of these indicators?

EWON supports the inclusion of these indicators.

Q35. What are your views on the definition of a payment plan?

EWON supports the AER's definition of a payment plan however we have argued elsewhere that this information should be supplemented with the reporting of extensions for payment alongside this indicator to ensure a full picture of retail market activity is being reported.

Q36. What are your views on reporting payment plan information for different categories of customers — in particular, residential, hardship and small business customers?

EWON believes that the customer classes reported should be residential, small business and small market offer customers.

EWON would not support the AER proposal to collect these indicators only for customers that are not hardship customers (see our response to Question 31).

2.2 De-energisation (disconnection)

Q37 .Do you support the inclusion of these disconnection indicators in the areas set out above?

EWON supports the inclusion of these indicators.

Q 38.What are your views on monitoring repeat disconnections over a 24 month period?

EWON supports the AER proposal.

2.3 Re-energisation (reconnection)

Q39. Do you support the inclusion of these reconnection indicators in the areas set out above?

EWON supports the inclusion of these indicators with one qualification. We think that the basis of data collection should be reconnection within ten days rather than seven days. This would reflect the current provision within the NECF National Energy Retail Regulations 615.

Q40. How should data and trends from these indicators inform an assessment of retailer performance in this area?

This data would enable trends to be identified, retailer performance to be measured and any anomalies to be investigated with explanations being sought from individual retailers with significant variations from the norm.

2.4 Concessions

Q 41. Do you support the inclusion of these concessions indicators?

EWON supports the inclusion of these indicators.

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?

This measure is valuable as an indicator of effectiveness of differing concessions. EWON believes that national research into (or information comparing) the various concession programs, emergency financial relief and customer assistance programs could provide the basis for establishing a more consistent approach in the delivery of these essential support mechanisms and help identify the best model of assistance for customers in hardship. Despite the identified difficulties, the data collected by the AER in this area could be an important starting point for such research.

2.5 Prepayment meters

Q 43. What are your views on our proposed approach to monitoring PPM self disconnection rates due to payment difficulties?

The reporting measures proposed for prepayment meters are essential. The number of customers with PPMs and the number removed due to payment difficulties are of value in understanding the nature of the roll out of this technology. It is a requirement of the Rules that retailers monitor and respond to customers who self disconnect three or more times for periods of longer than 240 minutes in any one quarter and this is an essential issue that retailers should report on (see NECF National Energy Retail Rules, 816).

Q 44. What are your views on the other issues raised above in relation to reporting against these PPM indicators?

The other areas that reporting should be based upon are the requirements of the NECF National Energy Retail Rules. These include:

- the number of removals of meters after the 3 month trial period (NERR 804)
- the number of adjustments of charges for allowed debt recovery (NERR 807)
- the number of customers with a PPM receiving rebates (NERR 815) and
- an annual report of available recharge facilities as required by NERR 817.

2.6 Security deposits

Q45. Do you support the inclusion of these security deposits indicators?

EWON supports the inclusion of these indicators.

Q46. What are your views on the timing and reporting issues raised in relation to the indicators?

EWON supports consistency in the frequency of reporting. Our views are presented in our response to Question 2.

2.7 Customer service

Q47. Do you support the inclusion of these customer service indicators?

EWON supports the inclusion of these indicators.

Q48. What other areas (if any) of retailer customer service might the AER seek to assess?

If the retailer's IVR offers a call back service then an additional important indicator of a retailer's customer service standard could be how many successful call backs are attempted and completed within the promised timeframe. A common complaint to EWON about poor customer service is the failure of a company to respond to a contact, especially failure to follow up promises of future contact.³

Q49. What are your views on the reporting issues raised in relation to the above possible indicators?

EWON believes it is important to maintain the current indicators from existing jurisdictions (where there is common agreement on definitions) so as to maintain a base of comparison, especially through the transition period of the national roll-out of the NECF. This is not to argue that new areas of reporting should not be added but that current data collection should, as much as is possible, be retained.

2.8 Complaints

Q50. What are your views on the categories of complaints to be included for reporting in this area?

Customer service complaints should be reported on as a separate category rather than included with the range of other issues. This is especially important to measure retailer performance when something is causing problems such as the introduction of a new billing system. Transparency as to how a retailer treats its customers when there is an error beyond its immediate control is essential for both regulatory and consumer responses. Customer service has been recognised as a

³ We note that in the telecommunications industry an enforceable undertaking was issued in February 2009 by ACMA against one company whose system of complaints handling was apparently a recorded message requesting a customer leave details, and then customers were rarely rung back.

significant driver of complaints and customer dissatisfaction in other industries, and as such, warrants being reported on in its own right.

Q51. What are your views on collecting complaints data separately for residential and business customers?

EWON believes that complaints data should be separately reported on for residential and small business customers.

Q52. What issues arise in relation to defining the complaint types, particularly given the need for consistent reporting?

The reporting of complaints can be problematic but the substantial work already undertaken by current regulators can be used and built upon. When retailers incorrectly define or record complaints this can be identified either by comparison with Ombudsman reporting or by comparison with industry averages. Where reporting discrepancies are identified close liaison with the retailer by the regulator can address these issues.

Q53. How might the AER effectively compare the data on complaints reported by retailers with that reported by energy ombudsman schemes?

We note that energy ombudsman schemes are seen as a significant source of information for ensuring the accuracy of complaint reporting. EWON anticipates providing information on customer complaints in a form and manner as required by the Australian Energy Regulator.

As well as Investigated Complaints (for example Level 1, Level 2, Level 3, Determination) EWON's statistics include situations where we do not conduct a formal investigation of the customer's complaint:

- General enquiries – a customer may contact EWON because they want information about a particular issue such as their rights in relation to energy marketers, details of the solar bonus scheme, or a new electricity or gas connection to a property. They do not have a formal complaint against a retailer or distributor at this stage.
- Complaint enquiries – a customer may contact EWON about a disputed bill or other issue, but they have not contacted their supplier in the first

instance. The customer is referred/transferred to their supplier and invited to contact EWON again if they are not satisfied with the outcome.

- Refer to Higher Level (RHL) - a customer has contacted their provider, usually at contact centre level, but they have not been able to resolve their dispute. Where appropriate, we offer to refer them to a more senior officer in the company they are complaining about. If the customer agrees to this, EWON does not investigate the complaint, so will not obtain any information about potential compliance breaches unless the customer contacts us again.

Although there has been no formal investigation of the complaint in these situations, we consider that statistics on Enquiries and RHL's provide valuable information on customer complaint issues.

A succinct summary of the role of the Regulator in comparing Ombudsman data with Retailer data is contained in IPART's 2008-2009 Compliance report:

"In addition, our examination of EWON's complaint statistics and case studies in 2008/09 identified inconsistencies with the compliance reports retailers provided to us, and suggested that some retailers had under-reported breaches of obligations. These matters were brought to the attention of the licensees concerned and generally led to the revision of their annual compliance returns. These matters have also been referred to the auditors for investigation where appropriate."

2.9 Reporting requirements

Q54. What are your views on the reporting requirements considered above?

EWON supports consistency in reporting requirements. Our views are presented in the response to Question 2.

Q55. What concerns, if any, do you have regarding the ability to report against the proposed indicators, and any costs associated with the reporting requirements?

The cost of providing an essential service includes the necessity of adequate regulation and enforcement of such regulations. Comprehensive performance and compliance reporting provides the basis for the regulators to undertake their responsibilities. Regular reporting can be modified over time once there is

evidence of comprehensive and consistent positive performance by retailers. An incentive approach to reduce regulatory burden as a reward for strong performance, while retaining a more formal regime for poor performance, seems to offer the best approach. However some regular reporting will always be essential to provide the basis for an open and transparent market where consumers can make informed choices which meet their needs.

3 Additional information on distributor performance

Q57. Is quarterly reporting of the proposed indicators appropriate, or would less frequent reporting (e.g. six monthly, annual) be preferable

In NSW distributors report to IPART on the following performance indicators:

- Timely provision of connection services
- Timely notice of planned interruption to supply
- Repair of faulty streetlights
- Call centre responsiveness
- Customer complaints

EWON considers that distributor reporting should be consistent with the retailers' obligations and should therefore be on a quarterly basis, however given the lower numbers in this area a longer reporting period would not be of great significance.