

16 February 2018

Michelle Groves
Chief Executive Officer
Australian Energy Regulator
PO Box 520
Melbourne Victoria 3001

Email MarketPerformance@aer.gov.au

Dear Ms Groves

Amendments to AER (Retail Law) Performance Reporting Procedures and Guidelines 2017-18

Thank you for the opportunity to provide feedback to the AER's *Notice of Draft Instrument - DRAFT AER (Retail Law) Performance Reporting Procedures and Guidelines Version 3*.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. Our comments are informed by our investigations into these complaints as well as via our community outreach and stakeholder engagement activities. EWON has responded only to the specific indicators contained in the draft *Guidelines* that have relevance through our casework, outreach experience and expertise.

Comprehensive performance reporting is essential for the effective and efficient operation of a competitive energy market. Performance reporting is an important tool that contributes to the regulator ensuring that retailers are meeting their consumer protection obligations. This reporting also helps to inform consumers how to participate in the market with confidence as well as providing real value and substance in the identification of trends and patterns over time.

The efficient and effective delivery of energy and compliance with customer protections in essential service provision is critical for customers, and failures can have extreme consequences.

We therefore support these new reporting requirements. We anticipate they will lead to more detailed information being available about the relationship between debt levels and disconnection, retailers' credit collection activities, the management of hardship programs and the proportion of customers with accrued debt.

They should also provide an insight into the practices of retailers and the experiences of customers following the 1 December 2017 commencement of the Power of Choice metering changes.

The attached table contains the new and amended proposed indicators contained in the draft *Guidelines* that we are commenting on. We have referenced the indicator numbering used in the draft *Guidelines*.

If you would like to discuss this matter further, please contact me or Rory Campbell, Manager Policy and Research, on (02) 8218 5266.

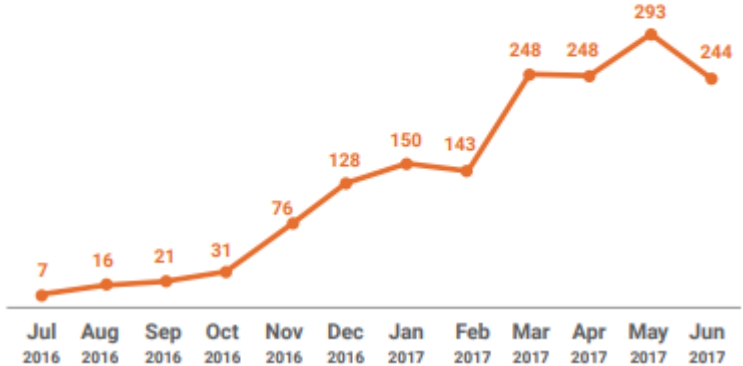
Yours sincerely

A handwritten signature in blue ink that reads "Janine Young". The signature is fluid and cursive, with the first name "Janine" and the last name "Young" clearly distinguishable.

Janine Young
Ombudsman
Energy & Water Ombudsman NSW

Section / Indicator	Proposed amendment / Information and data required	EWON's comments
Section 2: Obligation to submit information and data on performance		
2.3.5 Manner and form in which data must be submitted	Where there is more than a 10% variation in the data reported from the previous reporting period, then an explanation for the variation must be provided.	EWON supports this as it will focus retailers' attention on the reasons for substantial changes within their data.
Schedule 2: Retail Market Overview		
S2.4 The number of customers on a market retail contract with an expired fixed benefit period	Retailers are required to submit: (a) the total number of customers on market retail contracts where their initial fixed benefit period has expired for the supply of electricity, and (b) the total number of customers on market retail contracts where their initial fixed benefit period has expired for the supply of gas, and held on the last calendar day of the relevant reporting period in each of the following customer categories: i. Residential customers ii. Small business customers iii. Large customers (this should also include any large customers on other contract types)	EWON supports the inclusion of this. We also note that the guidelines are silent as to whether reporting is required if a fixed benefit period ends, but the contract continues on the same rate. We note that the requirement on retailers under Rule 48A of the <i>National Energy Retail Rules</i> to notify customers at the end of a benefit period only applies if the benefit changes. Consumers would be better informed to participate in the market if this was also addressed.

	For the purposes of this indicator, the number of contracts held by small business customers must be presented as including small market offer customers. A customer who purchases both gas and electricity under a single market retail contract with a retailer should be counted as one electricity customer and one gas customer. For the purposes of this indicator, the consumption threshold determined by the relevant jurisdiction should be applied.	
S2.5 The number of unknown or deemed customers	Retailers are required to submit: (a) the total number of deemed customers taking supply of electricity after 120 days, and (b) the total number of deemed customers taking supply of gas after 120 days, and held on the last calendar day of the relevant reporting period in each of the following customer categories: i. Residential customers ii. Small business customers iii. Large customers (this should also include any large customers on other contract types) For the purposes of this indicator, the number of contracts held by small business customers must be presented as including small market offer customers. For the purposes of this indicator, the consumption	EWON supports the inclusion of this. The requirement to report numbers of deemed customers taking energy supply longer than 120 days may bring into focus the practices of retailers who do not act to identify these customers sooner. It may also identify retailers who have large numbers of accounts where the customers are not engaged with the market and likely to be on standing offer tariffs. Requiring retailers to report this could lead to them focusing on this issue through proactive engagement with deemed customers. This could, in turn, lead to fewer disconnections and accumulation of arrears.

	threshold determined by the relevant jurisdiction should be applied.																																								
S2.6 The number of customers with Type 4 or 4A smart meters and reasons for installation	Retailers are required to submit the total number of small customers with Type 4 or 4A meters installed: (a) under the New Meter Deployment (b) as part of a meter repair or replacement schedule (c) as part of a new connection, and (d) as per a customer's request.	EWON strongly supports the addition of all categories of reporting in relation to Type 4 or 4A meter installation. Our experience regarding the retailer led rollout of net meters throughout 2017 (after the end of the NSW Government's Solar Bonus Scheme), saw us receiving a variety of complaints which highlighted the issues customers faced in upgrading their meter. We experienced a steady climb in complaints about digital meter installation throughout the 2016/2017 financial year, as illustrated below. Digital meter cases from July 2016 to June 2017  <table border="1"> <thead> <tr> <th>Month</th> <th>Year</th> <th>Digital meter cases</th> </tr> </thead> <tbody> <tr><td>Jul</td><td>2016</td><td>7</td></tr> <tr><td>Aug</td><td>2016</td><td>16</td></tr> <tr><td>Sep</td><td>2016</td><td>21</td></tr> <tr><td>Oct</td><td>2016</td><td>31</td></tr> <tr><td>Nov</td><td>2016</td><td>76</td></tr> <tr><td>Dec</td><td>2016</td><td>128</td></tr> <tr><td>Jan</td><td>2017</td><td>150</td></tr> <tr><td>Feb</td><td>2017</td><td>143</td></tr> <tr><td>Mar</td><td>2017</td><td>248</td></tr> <tr><td>Apr</td><td>2017</td><td>248</td></tr> <tr><td>May</td><td>2017</td><td>293</td></tr> <tr><td>Jun</td><td>2017</td><td>244</td></tr> </tbody> </table> We are monitoring the complaints we have received post 1 December 2017 since the Power of Choice metering changes commenced. Retailers reporting on these indicators will provide industry-wide insight into the experience of	Month	Year	Digital meter cases	Jul	2016	7	Aug	2016	16	Sep	2016	21	Oct	2016	31	Nov	2016	76	Dec	2016	128	Jan	2017	150	Feb	2017	143	Mar	2017	248	Apr	2017	248	May	2017	293	Jun	2017	244
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		customers following this significant industry change. It may also provide an insight into whether retailers' frontline staff are providing accurate information to customers and whether 'opt out' approaches are working.
S2.7 Types of tariffs for electricity customers with smart meters	Retailers are required to submit (where a customer has a smart meter installed): (a) The total number of customers receiving only a flat rate retail tariff i. On market retail contracts ii. On standard retail contracts (b) The total number of customers receiving a time-of-use or a flexible retail tariff i. On market retail contracts ii. On standard retail contracts (c) The number of customers: i. that have a distributor based flexible network tariff, and, ii. of those with a distributor based flexible network tariff, the number of customers where there is corresponding flexible retail tariff.	EWON supports this addition.
Schedule 3: Customer service and complaints		
Definitions	Metering complaints: include any complaint related [to] metering contestability in relation to the meter installation process, or metering related issues	EWON strongly supports this addition. As stated previously, it will provide insight into the experience of customers following this significant industry change and will distinguish metering related complaints from other complaints.

		We note that the word 'to' may be missing from 'complaint related metering contestability'.
S3.8 Complaints-meter contestability – meter installation	In each participating jurisdiction, retailers must report the number of complaints made in the reporting period about the installation of a Type 4 or 4A meter by: (a) residential customers; and (b) small business customers	EWON supports this addition. We would like to clarify whether reporting is required for complaints about meters that haven't been installed. Adding 'delayed installation' to the indicator may help to capture more detail about these complaints and will differentiate them from other Type 4 or 4A meter installation complaints.
S3.12 Complaints - meter contestability- cost	In each participating jurisdiction, retailers must report the number of complaints made in the reporting period about the cost of a Type 4 or 4A meter: (a) residential customers; and (b) small business customers	EWON supports this addition. We note that it is still unclear what fees will be charged by retailers and in what circumstances. It is also unclear how fees and charges for smart meter installation or meter reading will be communicated to customers. This will be critical, especially for customers in remote areas with type 4A meters who may face high charges for manual reads as a consequence of meter upgrade.
S3.15 Nature of repayment agreements - fortnightly amounts	Total number of electricity and gas customers repaying debts: (a) residential customers (excluding hardship program customers); and i. less than \$50 per fortnight ii. \$50 to less than \$100 per fortnight iii. \$100 to less than \$200 per fortnight iv. \$200 or more per fortnight. (b) small business customers i. less than \$50 per fortnight	EWON supports this. We agree that this will provide greater detail of actual and/ or perceived affordability issues facing energy customers.

	ii. \$50 to less than \$100 per fortnight iii. \$100 to less than \$200 per fortnight iv. \$200 or more per fortnight at the end of the reporting period in each participating jurisdiction.	
S3.18 Number of residential customers that have aged debt	The total number of customers (not on a hardship program) who have accrued an average debt: (a) \$1000 to less than \$1500 i. where the debt is more than 12 months old but less than 24 months old ii. where the debt is 24 months or more old (b) \$1500 to less than \$2000 i. where the debt is more than 12 months old but less than 24 months old ii. where the debt is 24 months or more old (c) \$2000 or more i. where the debt is more than 12 months old but less than 24 months old ii. where the debt is 24 months or more old at the end of the reporting period in each jurisdiction.	EWON supports this as it may encourage retailers to focus on more proactive management of customers with aged debt. Currently the information reported on is average debt, which does not allow any further breakdown to show the numbers of customers experiencing particular levels of debt. Whilst average debt provides a useful insight into changes over time, it does not provide a detailed statistical insight into the distribution of the debt levels of customers. EWON suggests that the AER consider using the debt categories proposed for indicator S4.4, regarding debt levels when entering a hardship program. This indicator includes a level of \$3500 or more. As stated in the draft <i>Guidelines</i>¹, this was added to S4.4 to reflect increasing levels of debt for residential customers.
S3.20 number of residential customers that have missed one or more pay on time (or	Total number of electricity and gas: (a) residential customers; and	EWON supports this as it will place a focus on whether retailers are offering manageable contracts to customers who fit their payment profiles.

¹ Notice of Draft Instrument – DRAFT AER (Retail Law) Performance Reporting Procedures and Guidelines Version 3

conditional) discounts	(b) small business customers that have missed receiving pay on time discounts due to making a late or missed payment during the reporting period.	
S3.25 Number of residential customers who have been referred to an external credit collection agency for the purposes of debt recovery – account status	Number of residential electricity and gas customers who were referred to an external credit collection agency for the purposes of debt recovery. Where: (a) the customer currently holds an open account with the retailer and is not currently on a payment plan or receiving hardship assistance (b) the customer currently holds an open account with the retailer and is on a payment plan or receiving hardship assistance, and (c) the customer is no longer an account holder with the retailer during the reporting period in each jurisdiction.	EWON supports this as it will provide insight into retailer compliance with the Sustainable Payment Plans Framework, which includes the management of residential customers with inactive accounts.
S3.26 Number of residential customers who have been referred to an external credit collection agency for the purposes of debt recovery – amount of debt	Number of residential electricity and gas customers who were referred to an external credit collection agency for the purposes of debt recovery, with energy bill debt that is: (a) less than \$500 (b) \$500 to less than \$1,500 (c) \$1,500 to less than \$2,500 (d) \$2,500 or more during the reporting period.	EWON supports this for the reasons noted previously.

S3.27 Number of residential customers who have been referred to an external credit collection agency for the purposes of debt recovery – credit rating	Number of residential electricity and gas customers who were referred to an external credit collection agency for the purposes of debt recovery where: (a) a credit default was applied against their name for debt associated with the retailer (b) a credit default listing was reversed by the retailer during the reporting period.	EWON supports this, however we note that if it is the intention of this indicator is to keep track of the total number of customers who are credit default listed, then we consider that the wording of this requirement may need to be amended. It has been our experience that some retailers do not refer a debt to an external credit collection agency, but rather may credit default list the customer themselves. This reporting requirement only asks retailers to report where an external collection agency has applied the credit default. Additionally, we note that a retailer who refers a debt to an external credit collection agency, perhaps by way of an arrangement where the debt is sold, may not be in a position to report on whether a credit default listing was applied as they may not be aware of what happens to the sold debt. Amount of debt prior to credit default listing: We also note that there is no requirement to report on the amount of debt customers are credit default listed for. EWON would support this inclusion as this information could be useful in identifying issues like disproportionate numbers of credit default listing referrals for smaller debts by a particular retailer or retailers; and by providing general statistics on credit default listings. It has been our experience that a failure in customers receiving notifications of unpaid balances on their accounts is a common underlying cause of the complaints we receive about credit default listings. Often this is as a result of the retailer not sending a bill or notice to the customer's forwarding address, for example, where a customer provides an email address to receive their final bill after moving out of
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		a property. These debts tend to be based on usage for one quarter, or less if the customer moved out mid billing cycle. EWON's position has been that a customer should not be credit listed for a debt under \$300, which is equal to the amount that the AER sets as the minimum threshold below which a customer cannot be disconnected. In circumstances where the debt is paid as soon as the customer becomes aware of it and the credit listing is updated as paid, customers are still often denied credit by financial institutions, despite the fact that failure to pay initially was not their fault. Reporting on the amounts that customers are credit listed for could help to: • guide regulation on fair and reasonable minimum amounts for credit default listing; • provide further insight into the practices of retailers and their management of these customers and their debts; and • provide industry wide insight into the practices of credit listing and its impact on customers.
S3.38 Total number of customers with debts at time of disconnection	In each participating jurisdiction, the total number of electricity and gas customers disconnected with debts in the following ranges for each of the following customer categories for the reporting period (a) residential customers i. less than \$500 ii. \$500 to less than \$1,500 iii. \$1,500 to less than \$2,500 iv. \$2,500 or more.	EWON supports this as this data can provide greater insight into the amount of debt that customers carry when they are disconnected. Whilst it doesn't require reporting on the actual amount a customer is disconnected for, which can be less than the total amount of the debt, it can provide information about the level of total debt prior to disconnection. We note that EWON has previously recommended that the

	(b) small business customers i. less than \$500 ii. \$500 to less than \$1,500 iii. \$1,500 to less than \$2,500 iv. \$2,500 or more.	minimum amount of debt before disconnection be raised above the current threshold of \$300² as we believe a customer should not be disconnected from an essential service for being one quarterly bill behind, nor should they be disconnected solely due to an inability to pay. The increase in energy prices over recent years has resulted in many more quarterly bills being greater than \$300. Retailers reporting on this indicator may help to guide the next review by the AER of the minimum disconnection amount.
Schedule 4: Hardship Program Indicators		
S4.2 Type of contract for hardship program customers	Retailers are required to submit: (a) the total number of electricity hardship customers that i. are on a standard retail contract ii. are on a market retail contract (b) the total number of gas hardship customers that i. are on a standard retail contract ii. are on a market retail contract held on the last calendar day of the relevant reporting period.	EWON supports this as it will provide insight into the number of hardship customers that are able to access the competitive market place, and into whether retailers are being proactive in offering appropriate market contracts for this category of customers.

² EWON submission to the AER's *Review of the Minimum Disconnection Amount*, September 2016

S4.6 Age of debt for customers on the hardship program	The age of the oldest debt for those electricity and gas hardship program customers who entered the hardship program during the reporting period, as at the last calendar day of the reporting period in each participating jurisdiction. (a) less than 6 months (b) 6 months to less than 12 months (c) 12 months to less than 24 months (d) 24 months or more.	EWON supports this as it will provide a focus on aged debt and promote increased proactive managing of customers with increasing arrears.
S4.8 Number of hardship program customers on types of payment plans	Number of electricity and gas hardship program customers making the following categories of payment plans, as at the last calendar day of the reporting period, in each participating jurisdiction: (a) less than ongoing costs (b) meeting consumption/bills (c) meeting the cost of consumption/bills and expected to clear arrears within 12 months (d) meeting the cost of consumption/bills and expected to clear arrears over 12 months or more.	EWON supports this addition, given it may provide a useful insight into whether retailers are adhering to the Sustainable Payment Plans Framework. Complaints to EWON since the introduction of the SPPF have indicated that a number of retailers are not adhering to the Framework despite being signatories to it.
S4.10 Number of customers entering and exiting the hardship program	Total number of electricity and gas customers who (a) entered i. after the customer self-identified as being in hardship ii. via retailer referral (b) exited the hardship program, during the reporting period in each participating jurisdiction.	EWON supports this change, however consideration should be made of the inclusion of a category for customers referred via community organisations or an energy ombudsman scheme. This will provide further insight into whether customers are self-identifying as being in hardship, or whether referrals are being facilitated by external parties.

S4.12 Number of customers denied access to the hardship program	Number of residential electricity and gas customers denied access to the hardship program during of the reporting period, in each participating jurisdiction because: (a) the customer did not agree to the suggested payment plan (b) the retailer was unable to contact the customer (c) the customer did not make the requested payments (d) it was more appropriate to return the customer to a normal payment plan or billing cycle. (e) other.	EWON supports this change as it will again provide a useful insight into whether retailers are complying with the Sustainable Payment Plans Framework. It will also provide insight into the challenges that can be faced by retailers in getting customers to engage with them. We are aware of the difficulty of engaging customers who are experiencing affordability issues, especially those at the high debt or disconnection end of the affordability spectrum. This is recognised by retailers, community agencies and EWON as being very challenging. Reporting on the reasons for customers not entering a retailer hardship program will provide valuable insight which could lead to programs that more adequately address the needs of customers and/or engage them in the process.
S4.14 Assistance provided to hardship program customers	Types of assistance provided to hardship customers throughout the reporting period. Number of customers that: (a) were transferred on to different market retail contract (b) were transferred from a standard retail contract to a market retail contract (c) received concessions that they were not otherwise receiving (d) received a rebate that they were not otherwise receiving (e) received new appliances through appliance replacement programs (f) received incentive payments or discounts	EWON very strongly supports this change and also suggest that this information be published. EWON has previously recommended that an option that could benefit vulnerable customers would be for the AER, or another independent organisation, to apply a rating system to each of the retailer's hardship policies³. We proposed that the rating system take into account a program's accessibility, regularity of customer account management/ contact, provision of payment matching, debt waiver, low consumption appliance provisions etc. as these vary significantly between retailers. Including this rating information as part of the search function on the AER's <i>Energy Made Easy</i> website would help to raise awareness about the different retailer hardship programs and their availability to consumers.

³ EWON submission to the ACCC's *Retail Electricity Pricing Inquiry*, November 2017

	(g) received debt reductions (h) had onsite energy audits completed by the retailer (or third party agency at the request of the retailer) (i) received reimbursement/ credit of late payment fees (j) received reimbursement/ credit of lost pay on time discounts.	Our casework indicates that the benefits of hardship programs differ widely from retailer to retailer, and consumers are not able to consider this when choosing the best retailer for their circumstances.
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