

Submission to the AER (Retail Law) Performance Reporting Procedures and Guidelines – Issues Paper

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About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program works for better regulatory and policy outcomes so people's needs are met by clean, resilient and efficient energy and water systems. We ensure consumer protections and assistance limit disadvantage, and people can make meaningful choices in effective markets without experiencing detriment if they cannot participate. PIAC receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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1. Introduction

The Public Interest and Advocacy Centre (PIAC) welcomes the opportunity to respond to the Australian Energy Regulator's (AER) (Retail Law) Performance Reporting Procedures and Guidelines Issues Paper (the Paper). The AER's role in monitoring energy retail markets is important in understanding the experiences and outcomes for energy consumers and helping to ensure the energy system is working for them. Retail performance reporting is a key transparency mechanism, providing crucial insights into how consumer outcomes are being achieved and prioritised by energy retailers in their provision of an essential service. PIAC supports the role of monitoring as an important guidance for future policy and reform and encourages the AER to view this as an opportunity to improve the information and evidence foundation of future policy processes.

In this submission we outline PIAC's broad support for the suggested changes to the guidelines and explain how these changes will lead to better outcomes for consumers.

We note that new potential indicators, increased frequency and granularity of data and refining and consolidation of data as outlined in the paper align with concurrent processes and priorities of the AER. We agree that the suggested changes will contribute towards the AER's compliance and enforcement priority to

Improve outcomes for customers experiencing vulnerability, including by improving access to retailer hardship and payment plan protections.¹

We also note the Paper's alignment with the AER's 'Towards energy equity strategy'², which we provide more detailed comment on in the substantive sections of this submission.

2. New potential indicators

2.1 Embedded networks

PIAC supports the collection of new data regarding people who live in embedded networks.

A comprehensive picture of the impacts of embedded network and exempt selling arrangements on residents is difficult. There is little visibility of how many residents are covered by such arrangements and what their circumstances are. This includes the specific business arrangements of the embedded network they live in. Without comprehensive information on the circumstances and outcomes of consumers served by these arrangements, it is not possible to ensure appropriate protections and supports are consistently provided. This contrasts with residents served in standard retail and network arrangements where monitoring and information (though not perfect) is more consistent and transparent.

¹ <https://www.aer.gov.au/system/files/AER%20Compliance%20and%20Enforcement%20Priorities%202023-24.pdf>

² <https://www.aer.gov.au/retail-markets/guidelines-reviews/towards-energy-equity-a-strategy-for-an-inclusive-energy-market>

PIAC agrees with the AER that people living in embedded networks are more likely to be experiencing disadvantage, partly as a result of their circumstances. As it stands, the many – and increasing number of – people living in embedded networks are unlikely to have the option to access their energy from a market retailer and many experience limitations in the rebates and other protections they can access as a result. Many people in embedded networks, particularly residential parks, nursing and retirement homes and social housing developments, are likely to have lower incomes and be in more vulnerable situations. The potential for harmful impacts are significantly higher for residents in embedded networks, both because of their personal circumstances and their limited access to supports and protections. For example, there is no requirement that exempt sellers proactively identify people experiencing payment difficulties. There are also likely to be complicated power relationships where the exempt seller may also be the landlord and/or property manager and might also provide other services their water and internet. This makes resolution of energy issues less likely and more complicated.

Addressing these issues will help the AER meet priority objectives of its *Towards energy equity* strategy. Specifically, Objective 1: Improve identification of vulnerability, Action 7: Improve outcomes for consumers in embedded networks and Objective 3: Strengthen protections for consumers facing payment difficulty.

To help meet these objectives for consumers in embedded networks, PIAC recommends collecting the following data to help monitoring and compliance and lead to improved outcomes for consumers. To assist the AERs assessment process we provide explanation of the issue, before providing recommended indicators the AER could include to monitor them:

To provide a better understanding of the scale and scope of embedded networks PIAC recommend collecting data on:

- Total number of child connections in the embedded network, as well as an estimate of the total number of people living in the embedded network.
- The number of consumers on ‘on-market’ and ‘off-market’ contracts and the number of consumers on ‘energy only’ contracts.
- Number of parent or gate meters supplied by the retailer.

Whilst some embedded networks have the potential to bring benefits to consumers, particularly access to solar and batteries, the rapid rise in embedded networks has little to do with consumer benefits. The overwhelming majority of embedded network arrangements are motivated by improved profitability, locking in long term contracts for service providers whilst avoiding the full suite of protections required of authorised sellers.

The Energy and Water Ombudsman NSW (EWON) has documented examples of businesses adopting a structure allowing them to be classified as billing agents rather than specialist external providers.³ Removal of the word ‘generally’ from ‘We do not generally consider class exemptions are appropriate for service providers...’ in the Retail Exempt Selling Guideline Version 6 provides some re-enforcement that exemptions are only for situations where selling energy is not the core business activity of the service provider.

³ Energy and Water Ombudsman NSW, [Embedded networks – it’s time for change](#) (2021)

However, this, and other business models should be monitored by the AER so that action can be taken to ensure consumer protections are afforded. The updating of the *Performance Reporting Procedures and Guidelines* provides a much-needed opportunity to monitor business structures which may not be delivering outcomes in consumers' interests. To accomplish this, PIAC recommend collecting data on:

- How many embedded networks are operated by the exempt entity and the total number of consumers they manage services for.
- The type of business structure being used.

It is important that the AER be aware of how many people are residing in each type of exemption classes to ensure that the classes are being used as intended and that protections for consumers are suitable, and the identified class is suitable for the actual situation. For example, this may uncover that there are long-term residents in an embedded network classed as short-term accommodation. PIAC recommend collecting data on:

- Which class of deemed or registerable exemption applies.

It is important to have an understanding of the nature and impact of benefits consumers in embedded networks are accessing, and how this may compare to any consumer detriment or disadvantage that may be experienced. This is crucial to determining whether any 'trade-offs' on regulation are in the interests of the impacted consumers. To accomplish this the AER should collect data on:

- Whether there are renewable energy or other benefits for consumers in embedded networks/their nature/their impact on all effected consumers.

It is necessary to have greater visibility of the type of embedded network services provided Particularly where it may impact other consumer outcomes. The AER should collect data on:

- Whether there is unmetered supply.

PIAC is aware of bills being provided in embedded networks, especially in land lease communities (long-term caravan homes), which do not have adequate or standardised information in them. Whilst this is a problem in itself, it can also prevent otherwise eligible people from accessing government supports such as Energy Accounts Payment Assistance.

Being required to provide an example of a bill will help ensure compliance with billing rules and allow the AER to be aware where non-conforming bills are being provided to consumers. The AER should seek to improve visibility by regularly collecting:

- An example of an actual bill being provided to consumers.

The AER is aware of exempt sellers not complying with the requirement to join their jurisdictional ombudsman scheme.⁴ PIAC consider membership of ombudsman's schemes an important protection and the AER has a crucial role in improving consistency of adherence to this requirement. The AER should collect data on:

- Whether they are members of their jurisdictional ombudsman scheme.

PIAC agrees that metrics to gain greater clarity on consumer outcomes is important. Given the greater relative disadvantage and vulnerability of many residents in embedded networks, and the lower levels of consumer protections afforded to people in embedded networks, PIAC recommends a more fulsome collection of data than included in the Issues Paper to get a clearer understanding of outcomes and experiences of consumers. PIAC highlights the following key indicators for consumer protection:

- Price outcomes – what are the prices consumers are actually paying.
- Energy debt – number of people in energy debt and the amount of debt they have; whether any energy debt has been sold to a third party debt collector.
- Payment plans – number of people on payment plans and how long these arrangements have been in place.
- Hardship support – number of people in hardship support and how long these arrangements have been in place.
- Disconnections and the circumstances that lead to the disconnection; how long before the service was re-connected; and the number of repeat disconnections for the same consumer.
- Number of people who have accessed independent dispute resolution services.
- Whether their consumers have access to government assistance, including concessions and emergency supports where available.

PIAC also recommends the collection of the number of people living in hot and chilled water embedded networks, which we, along with the NSW Government,⁵ consider to be the sale of energy. The scale of this issue is hard to determine without reliable data. PIAC recommends this data include:

- Total number of consumers in the embedded network.
- The type of business structure being used.
- What embedded network services they provide.
- How many embedded networks are operated by the exempt entity and the total number of consumers they manage services for.
- Whether there are renewable energy or other benefits for consumers in the embedded network.
- An example of an actual bill being provided to consumers.
- Key indicators for consumer protection:
 - Price outcomes.

⁴ For example, this issue was raised in AER, [Updating the network and Retail Exemption Guidelines Consultation paper](#) (2021), 36-37

⁵ Office of Energy and Climate Change, NSW Treasury, [Draft Ministerial Statement of Expectations: Protecting NSW customers of embedded networks](#), 1.

- Debt – number of people in debt from their hot and/or chilled water service and the amount of debt they have; whether any debt has been sold to a third party debt collector.
- Payment plans – number of people on payment plans and how long these arrangements have been in place.
- Whether they provide any hardship support and if they do, what does this support include, the number of people in hardship support and how long these arrangements have been in place.
- Disconnections and the circumstances that lead to the disconnection; how long before the service was re-connected; and the number of repeat disconnections for the same consumer.
- Number of people who have accessed independent dispute resolution services.
- Whether their consumers have access to independent dispute resolution services.

2.2 Life support customers

PIAC supports the collection of new data regarding people who need life support, to enable the AER to better monitor compliance with the NERR and ensure protections for people experiencing this type of vulnerability. We note that in its response to the AEMC’s Maintaining life support customer registration when switching consultation paper, the AER wrote, ‘Since the new life support rules were introduced in 2017 we have seen continued issues with the accuracy of life support registers and timeliness of registration which places vulnerable consumers at risk. We consider that this is largely due to inadequate compliance systems and processes.’ The collection of relevant data through the Performance Reporting Procedures and Guidelines is an opportunity to address some of these issues.

PIAC recommends collecting a wider range of data to help monitoring and compliance and lead to improved outcomes for consumers. We outline a number of key issues and identify aspects of data which could assist the AER in monitoring and addressing them.

The AER needs greater transparency of the scale of life support requirements and should collect:

- The total number of registered life support customers for each retailer.

There is no clear understanding of the balance between retailers and distribution with regard to who is contacted first to be put on the life support register. The AER should collect data on:

- Whether the retailer or the distribution business is the registration process owner.

More clarity is needed regarding change in the total number of life support customers and who is responsible for them. This will help with understanding whether the size of the life support register is rising at expected rates, such as in alignment with an aging population, or may indicate whether there are other factors at play. The AER should monitor:

- The number of registered and deregistered life support customers for each retailer during the reporting period.

Generally, a premises will only need to be deregistered because the person needing life support moves home or passes away. Better data will help pick up on issues such as where a medical confirmation has not been provided, or where a premises was incorrectly put on the register. It could also provide insights into how to keep the register up to date. To accomplish this the AER should collect data on:

- Why a premises has been deregistered.

The medical confirmation process is not as effective as it should be. The AER needs further insights into whether the medical confirmation process is working for the people it is designed to protect and how it could be better designed. The AER should collect data on:

- The number of people on the register who have incomplete registration (for example, they have not provided a medical confirmation or their medical confirmation is incomplete), how long their registration has remained incomplete and what steps have been taken to remind the person requiring life support that they need to complete their registration.

There is often misalignment between the life-support register and receipt of any rebate or concession for life-support. Tracking the uptake of life support concessions would help clarify alignment between the life support register and life support concessions and indicate any potential need for reform. The AER should collect data on:

- Whether the household requiring life support is in receipt of any applicable life support concession.

2.3 Consumers affected by family violence

PIAC supports the collection of new data to help understand the impact and compliance with the family violence protections and obligations under the NERR. The scope for harm for victim survivors is significant and the consequences of getting protections and supports wrong can be serious and even fatal. The collection of meaningful data as part of the *Performance Reporting Procedures and Guidelines* will go some way to achieving the AER's *Towards energy equity*, Action 1: Improve protections for consumers affected by family violence and Objective 3: Strengthen protections for consumers facing payment difficulty.

PIAC recommends collecting additional data to help monitoring and compliance and lead to improved outcomes for consumers. In the following section we identify a number of issues and recommended data which could help address.

The AER should monitor the retailers work in identifying indicators of family violence and the effectiveness of their systems in managing those who have disclosed to them. This should include where there is new disclosure/indicators during the period, as well as the total number and should then be categorised into what assistance and support was offered and is being provided including:

- The total number of consumers who:
 - Have disclosed to their retailer that they are victim-survivors of family violence.

- Retailers have picked up ‘red flags’ that the consumer is likely to be a victim-survivor of family violence.
- How the retailer has prioritised the victim-survivor’s safety (Rule 76D).
- How the retailer assisted/managed with debt management, fees and payment methods (Rule 76F and Rule 111), including the use of:
 - hardship programs (including length of time, noting that it can take victim-survivors many years to recover from family violence);
 - payment plans (including length of time, noting that it can take victim-survivors many years to recover from family violence);
 - debt waivers (how much, and how much, if any, debt remained);
 - internal pursuit of debt (amount of debt; steps taken to consider joint and several liability of debt; techniques used to pursue debt);
 - referral of debt to a third party debt collector (amount of debt; steps taken to consider joint and several liability of debt); and/or
 - disconnection (amount of debt at time of disconnection; steps taken to consider joint and several liability of debt; considerations used to determine potential impact of disconnection on victim-survivor and their dependents).
- What steps were taken to identify a victim-survivor’s preferred method of communication and if this method was not used, why (Rule 76H).
- What family violence support services information is given to victim-survivors and how is consideration of the appropriateness of this is applied (Rule 76J).

To ensure compliance with rule 76B Ability of retailer staff to assist affected customers, what monitoring and evaluation approaches are being undertaken, including short, medium and long term process indicators.

Given that family violence may never truly end, and that the financial and emotional impact may last for years, we do not support the collection of data regarding ‘Total number of customers identified as no longer affected by family violence during the reporting period’, as was suggested in the Issues Paper. We see no consumer benefit in collecting this data and we are concerned that it could lead to harm for victim-survivors if retailers specifically ask this question. At best this could be insensitive and at worst could lead to victim-survivors saying that they no longer need supports or protections even though they do, to avoid being asked this question.

This data collection is also an opportunity to understand what harms people are experiencing, what risks arise from energy service policies and processes, and what victim-survivors say helped them and what would have helped them. As such, collecting data on what feedback has been received from victim-survivors and how the retailer has responded to this, would provide invaluable insight. This aligns with one of the four Foundation Principles of the draft *National Plan to End Violence Against Women and Children 2022-32* which recognises that ‘we need to draw upon the diverse lived experience of victim-survivors to design appropriate and effective policies and solutions.’⁶

⁶ <https://engage.dss.gov.au/wp-content/uploads/2022/01/Draft-National-Plan-to-End-Violence-against-Women-and-Children-2022-32.pdf>

2.4 Additional indicators for consideration

To comprehensively track retail performance there are additional indicators that the AER should collect.

2.4.1 Offers actually available and accessed by consumers

A report commissioned by PIAC found concerning energy retailer behaviour, including regarding offers made available to consumers⁷. Researchers found considerable discrepancy between offers publicly listed on EnergyMadeEasy and those that were actually available to consumers upon contacting the retailer. In their recent DMO determinations the AER has also recognised a lack of information regarding what type of offers consumers are accessing (beyond simply delineating between standing and market offers). In both cases performance reporting has an important role to play in monitoring the state of the market and providing the AER and others with greater clarity regarding what offers consumers are accessing. In this context PIAC recommends the AER consider additional indicators to monitor:

- Number of active standing and market offers per retailer.
- Number of active customers per standing/market offer. This is aimed at helping to determine actual market outcomes consumers are accessing, the relative number of people on better retail offers, how many offers are actively being accessed.
- Number of customers on 'expired' benefits market contracts (that is, people who would be captured as on a market offer, but not receiving the benefits of contract they consented to).
- Number of customers moving on to a standing offer or DMO equivalent offer in the period.

PIAC's research also highlighted concerning uses of conditional discounts and fees. Collecting additional data about retailer offers would assist in further understanding how consumer harm can be avoided. Additional indicators could include data on the number of customers being impacted by the following fees and charges:

- Membership fees
- Reconnection / move-in fees
- Disconnection fees
- Dishonour fees
- Late payment fees
- Credit card payment fees
- Payment processing fees
- Conditional discounts for product bundling
- Conditional discounts for 'loyalty'

This data should be accompanied by a schedule of fees levied by each retailer, indicating how much consumers impacted by these charges would be charged, and how often the same people pay multiple fees on a single bill.

It would be a good opportunity for the AER to understand who pays these fees. In effect, many of these fees make energy cost more, possibly for people who can least afford it. While it is difficult,

⁷ Miller, Lisa and Miller, Kelly, 'Save4Good: Insights into Retailer Practices' (2022) <https://piac.asn.au/2022/10/28/save4good-insights-into-retailer-practices/>

the AER should explore opportunities to cross reference consumers who pay these fees with consumers on current or previous payment plans and/or are currently in or were previously in hardship programs, as well as consumers with 0, 30, 60 or 90 day debt would provide insight into whether the use of these fees should be more tightly regulated. As the AER have reported, missing conditional discounts acts as a late payment penalty and contributes to financial stress. Referring to ACCC data, the AER noted that people experiencing financial difficulty (were on payment plans or in hardship programs) were more likely to miss out on pay on time discounts.⁸

2.4.2 Qualitative data

More qualitative data can provide crucial details on consumer outcomes and experiences that broader, quantifiable data alone cannot capture. While the collection of qualitative data can be a more complex process than the collection of quantitative data, the insights available would make the added complexity worthwhile.

For example, it would be valuable to understand *how* retailers are training their customer service staff to handle interactions appropriately and respectfully with people who disclose family violence. This would be a helpful augmentation to quantitative data on how many specialist assistance /hardship staff the retailer has and how many staff have received appropriate support training.

Another example of qualitative data is retail relationship audits. This could include case studies of customer-retailer relationships that led to a disconnection happening. While this is not currently a regulatory requirement, it should be encouraged practice for retailers to investigate the processes and specific experiences which lead to disconnection to consider whether more could be done to avoid disconnection in future. A quantitative indicator could also be collected, such as “how many relationship audits have been undertaken to improve customer experience.”

2.4.3 Energy system transformation

The retail market is going to continue to change and likely become more complex as our energy system continues to transform. This current revision process for the guidelines should future-proof retail performance reporting by commencing data collection on key energy transition indicators including electrification, innovative energy products and green products.

Retail performance reporting should track how retailers and consumers are engaging with the process of electrification, as well as provide updated data that can assist in the planning and implementation of electrification. Electrification of households is critical to emissions reduction, which is being incorporated into the updated NEO. Retail performance reporting should also track consumer energy resources (CER), innovative and green energy products, offsetting and bundling to better understand how the retail system is contributing towards emissions reduction and equitable access to emerging energy products. These indicators could also assist in tracking potential greenwashing in the energy retail market, which is a current priority of the ACCC⁹.

Additional indicators could include:

- Number of dual-fuel households.

⁸ AER, *Annual retail markets report 2021-22* (2022), 42-43.

⁹ <https://www.accc.gov.au/business/advertising-and-promotions/environmental-and-sustainability-claims>

- this may be difficult where the gas retailer is not also the electricity retailer but there is merit in exploring it where possible.
- Number of dual-fuel households with solar.
 - While this may be difficult where the gas retailer is not also the electricity retailer, there is merit in exploring it where it is possible.
- Number of customers with bundled renewable asset purchases.
 - indicating how retailers are adapting to consumer and environmental outcomes; if/how consumers are accessing CER; trends in debt and hardship (if debt/hardship sub-categories included); equity of access to CER.
 - this indicator should apply whether retailers are offering the products themselves or have a licensed deal.
- Number of customers on Greenpower.
- Number of customers with carbon offsetting products.
- Total dollar amount of carbon offsets.
- Total carbon emissions offset.
 - This would be another useful area to collect qualitative data on retailer carbon offset programs
- Percentage of retailers' actual emissions offset by customer offset products.
- Consumers charged with load control supply charge but not usage (indicating legacy issues with an electric hot water service which has subsequently been removed).

Data on ongoing consumer experiences and outcomes from the energy transformation is crucial to capture to monitor the affordability, accessibility and sustainability of the energy retail market system. PIAC seeks to understand whether any of the following could reasonably be captured in the AER's retail performance reporting.

- How much renewable generation retailers purchase from the wholesale market.
- The different experience of customers wholly dependent on the NEM / Domestic Gas networks compared to those with CER¹⁰.
- Consumer complaints and issues concerning the deployment of CER, electrification and leaving the gas network¹¹.

2.4.4 Additional consumer experience indicators

An additional question/s should be added to Schedule 3 of the guidelines to capture the number of successful and unsuccessful calls using an interpreter. Research undertaken for PIAC indicated that there are a number of issues when trying to speak to retailers using interpreters, including long call wait times for retailers which means the interpreter needs to drop out of the call as well as retailers using jargon that the interpreter does not translate accurately.¹²

¹⁰ Specifically Rule 167 (3)(b) specifies particular categories of customer to be reported on – but this list is not limited and the AER has discretion to capture additional categories: (b) different categories of customers as determined by the AER, including (but not limited to) small customers and large customers, and residential customers and business customers

¹¹ As regards the types of info that can be captured – Rule 167(1)(a) activity of “customer service and customer complaints” could be interpreted widely to include complaints on CER and difficulties leaving the gas network

¹² Kelly, L and Kelly, K (n 7) 8, 20, 22 and 24.

Additional consumer experience indicators could include:

- How long calls take to resolve issues, recorded by major issue categories.
- Whether multiple issues are resolved in a single call.
- Call wait times between different departments, particularly where a call is transferred to a hardship team member.
- Call length times when an interpreter is utilised.
- Successful calls (eg issue is resolved) where an interpreter is used versus comparable issues where no interpreter is used.
- Call drop offs that involve interpreters and how this compares to call drop off where no interpreter is used.

3. Refining current indicators

PIAC broadly supports refining current indicators as outlined in the paper.

We support sections 3.1 & 3.2 on clarifying unclear indicators and implementing data validation to help ensure accuracy of data and analysis.

We support section 3.5 on the introduction of alternative meter types to exist alongside data collection on prepayment meters and note that alternative and prepayment meters often particularly impact vulnerable consumers and households.

We support section 3.7 on redesigning call centre indicators. We agree it is important to bring these indicators up to a modern standard to capture customer contact avenues including online chats and text-based services.

The remainder of the sections included in the issues paper on refining current indicators we respond to substantively below.

3.1 Debt Indicators

Affordability is a critical indicator of the efficiency and efficacy of markets that provide an essential service. PIAC supports changes to debt indicators to enhance AER monitoring functions and to assist in better understanding how retailers are supporting consumers experiencing payment difficulties. The suggested additional debt indicators will contribute towards a broader picture of how retailers are performing in regard to affordability.

3.1.1 0, 30, 60 & 90 day Debt

Early intervention in debt management is critical to good consumer outcomes. To achieve this, PIAC supports adding 0-30, 30, 60 & 90 day debt to the Guidelines. Only capturing 90-day debt, as in the current Guidelines, risks missing vital information that can contribute to early intervention in energy debt management and long-term debt avoidance. This risk was identified and ameliorated during the COVID-19 pandemic when the AER collected voluntary 30-90 day debt data from retailers. As retailers have already been providing this data during the pandemic, it is reasonable to formalise this by adding these debt indicators to the updated guidelines.

Adding 0-30 day debt would provide visibility on late payments that are not captured by the current Guidelines. A 0-30 day debt indicator would allow comparisons with longer-held debt, providing crucial information in understanding consumer debt experience. For example, if retailers are consistently returning high 0-30 day debt figures the AER can ask what their early 'intervention' processes are before it turns into larger/longer debt. Visibility on which retailers are successfully intervening in early stages of debt would help inform policy responses and strengthen AER analysis.

3.1.2 Average debt measurements

PIAC supports adjusting debt measurements to include an average measurement.

In addition to the uses suggested by the AER in the paper, we would be interested in averages for large and long-term debts. Averages for these indicators would assist in stronger analysis and better tailoring policy responses around debt, energy use and energy affordability.

3.1.3 Alternative debt arrangements

PIAC supports adding and/or adjusting indicators to collect data on alternative debt arrangements that are not visible in the current retail performance reporting. We anticipate that consumer energy debt will continue to worsen with the current cost of living crisis and the significant increase in energy bills. Obtaining as full a picture of household energy debt as possible is critical to understanding energy affordability and consumer protections.

Our recent research demonstrates that consumers are using credit products such as Buy Now, Pay Later (BNPL) for essentials, including their energy bills.¹³ We understand there are some difficulties in the visibility retailers have in identifying when consumers are using BNPL products to pay for their energy bills, however collecting this data where possible would be of significant value.

Indicators could include:

- Number of customers on bill smoothing arrangements or monthly billing which is not based on actual usage (ie monthly billing where they don't have a smart meter).
- Number of customers on deferred debt arrangements/number of customers paying usage only.
- Average debt of customers using Centrepay.
- Average debt of customers on deferred debt arrangements.
- Number of customers request payment extensions.
- Number of customers granted payment extensions.
- Number of customers identified as paying with buy now pay later or other unregulated or lightly regulated credit products.
- Number of people paying by credit card.¹⁴

3.1.4 Non-hardship debt

¹³ <https://piac.asn.au/2023/06/30/paying-to-pay-using-credit-products-to-afford-energy/>

¹⁴ As an established payment method, use of credit card is not necessarily an indicator of payment difficulty. However, an increase in paying energy bills by credit card could indicate an increase in payment difficulty that the AER should be aware of.

PIAC supports splitting electricity and gas in indicators S3.15, 3.17 and 3.18. Distinguishing data between gas and electricity is valuable in analysis comparing the two energy types and will be useful for tracking debt incurred by consumers unwilling or unable to leave gas networks.

3.2 Tariff and meter types

PIAC supports greater visibility of all meter types and the type of tariff a consumer is on. Expanding to include all meter types will allow for better understanding of meter types and uses on consumer outcomes.

Further to this, additional indicators for type 4 and 4A could include:

- Number of non-solar customers with smart meters.
- Number of smart meter customers on standing offers.
- Number of customers on monthly actual billing (it's a sub-set of smart metering stats).
- Number of smart meter customers with arrears/debt .

PIAC is concerned that there is an underlying assumption in this section of the Paper that it is the role of retailers to simply pass through the DNSP's price signals, as indicated by the AER's suggestion to 'monitor the extent to which retailers pass the underlying network tariff structure onto their customers'.

Where it impacts on the formulation of the guidelines or subsequent analysis in reporting, PIAC is concerned the purpose of network tariffs, cost-reflective network tariffs (CRNTs), and the interaction between network tariffs and retail tariffs has been fundamentally misunderstood and confused. Cost-reflective network tariffs (and network tariffs generally) are an input, among many, to the end retail tariff paid by the consumer. CRNTs (and network tariffs generally) are intended to reflect the costs of usage at a connection point to the retailer responsible for that connection.

It is the role of the retailer to bundle network costs (along with much more variable wholesale energy costs and other inputs) and create a range of retail products for consumers to choose from. This may include tariffs which more closely mirror underlying network tariffs, tariffs which vary with wholesale prices, flat tariffs or 'unlimited' use tariffs, tariffs with 'demand response rebates', solar-soak tariffs and more. The range of choice should offer consumers a retail product that suits their particular needs. Some may prefer to pay slightly higher, but flatter tariffs (valuing certainty and consistency over control and potential cost savings), where others may be willing to have more variation but be responsible for managing their use accordingly (and accepting the risk they may end up paying more if they cannot change their use). There is no need (and no justification) for retailers to require consumers to be on retail products which reflect network tariffs. In fact, doing so is an unreasonable curtailment of consumer choice that contravenes key assumptions of the market framework which underpins the NEM.

We recommend the above reasoning be considered when formulating indicators on tariffs for the updated guidelines.

3.3 Energy concessions and rebates

PIAC supports the AER continuing to collect data on customers entitled to receive energy concessions and adding indicator/s on how many eligible people actually receive concessions. It would be useful to have this indicator expressed as a percentage.

We recommend useful sub-categories for analysis of the availability, efficacy and uptake of concessions and rebates includes:

- Number of rebate/concession recipients with debt.
- Average debt of rebate/concession recipients.
- Number of rebate/concession recipients in hardship programs.
- Number of rebate/concession recipients on payment plans.
- Number of rebate/concession recipients who are notified of a disconnection but avoid the disconnection
- Number of rebate/concession recipients who are disconnected.

These indicators should be compared to consumers who do not receive rebates/concessions, to help jurisdictional governments assess whether rebates/concessions are at adequate rates/using the right mechanism to avoid payment difficulty.

PIAC agrees that it is a significant problem that not all people who are eligible for rebates/concessions are receiving them. The Consumer Policy Research Centre undertook research¹⁵ into the gap between concession eligibility and those in receipt of the concessions and found that 35% of NSW residents who were eligible for a rebate but were not receiving it. This figure was 35% for SA, 31% for the ACT, 29% for QLD and 19% for Tasmania.

In a report prepared for PIAC, All Sustainable Futures (ASF) found that 21% (84 out of 392) households of households participating in a sustainability project were eligible for a rebate but were not receiving it/them. Reasons eligible people were not receiving rebates included: people did not know they existed; they thought they were receiving it; they did not understand their conversation with the energy retailer; they did not know how to access it; and/or they thought they would automatically get it when they were eligible.¹⁶

ASF also found that some households had attempted to get concessions but they had a mismatch between the residential address that Services Australia has and the energy supply address, which meant that the household was unable to get their concession despite being otherwise eligible. Anecdotally, PIAC has heard from EWON and financial counsellors that this issue is not uncommon.

The AER could help address these issues by understanding the scope of the related issues including:

- Where rebates/concessions have been backdated, indicating the concession/rebate should have been applied earlier.

¹⁵ Consumer Policy Research Centre, [Mind the Gap: Identifying the gap between energy concession eligibility and concessions received](#) (2022) 10.

¹⁶ Miller, L and Miller, K (n 7) 16.

- Reasons why an otherwise eligible person has not received a concession/rebate.
- Where the retailer has been unable to apply a rebate because of an address or name mismatch issue and has referred their consumer to another agency and whether the issue was resolved or remained unresolved.

4. Frequency and granularity of data

PIAC supports increasing the frequency of selected indicators to monthly collection with quarterly reporting. Monthly data would allow better tracking of how consumers are impacted by one-off events, policy changes and announcements, seasonal energy use, annual DMO setting and more.

Monthly data should be collected for all indicators that capture:

- Debt and payment difficulty;
- Hardship;
- Disconnections; and
- Family violence.

PIAC broadly support increased granularity of data. Distribution zone and/or metro/regional divide would be useful from a consumer stakeholder perspective for targeted policy response, service provision and resourcing.

Care must be taken to ensure granularity of data collection does not risk identification of individuals, particularly for incidence of family violence.

5. Consolidation of indicators

PIAC broadly supports consolidation as long as the indicators being removed truly are duplications or unnecessary.

PIAC disagrees with section 5.1 on removal of complaint indicators for meter contestability. The AEMC's smart meter review has not been finalised or implemented, and the penetration of advanced meters has not reached majority. Indeed, with the planned accelerated roll-out of advanced meters it is likely that metering complaints will increase across the next 7 years until the 2030 goal is reached. Removal of this complaint indicator would be premature.

6. Indicators for distributors

PIAC supports continued reporting on service standards and GSL scheme. Without further information as to any material difference that is made by to DNSPs by the AER formalising this reporting to ensure it better aligns with the AERs deadline, we agree this is a reasonable change to the guidelines.

PIAC supports in principle reporting on small compensation claims while acknowledging that no jurisdiction has yet adopted the regime.