



Australian Energy Market Commission

DRAFT RULE DETERMINATION

NATIONAL ENERGY RETAIL AMENDMENT (BILL CONTENTS AND BILLING REQUIREMENTS) RULE

PROPONENT

Hon Angus Taylor MP, Minister for Energy and Emissions Reduction

17 DECEMBER 2020

RULE

INQUIRIES

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ABOUT THE AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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EXECUTIVE SUMMARY

1 On 16 April 2020, the Honourable Angus Taylor MP, Minister for Energy and Emissions Reduction, on behalf of the Australian Government (the proponent), submitted a rule change request to the Australian Energy Market Commission (AEMC or Commission) to amend the National Energy Retail Rules (NERR). The rule change proposal sought to amend the NERR to require the AER to develop a mandatory guideline to make it easier for small customers to pay their energy bills and verify their bill conforms to their contract, query the bill, understand their usage, and navigate the retail market to seek the best offer. The proposal aimed to simplify electricity and gas bills, so households and small businesses can better understand and manage their energy usage and costs, and find a better energy deal driving improvements in competition.

2 In response to the rule change proposal, the Commission has determined to make a more preferable draft rule (draft rule). The draft rule adopts many elements of the proponent's rule change request including a mandatory guideline on billing requirements.

3 The more preferable draft rule made by the Commission:

- Requires the Australian Energy Regulator (AER) to make billing guidelines in relation to how retailers prepare and issue bills to small customers. The provisions in the billing guidelines will replace the current bill information requirements in rule 25(1) of the NERR.
- Requires retailers to comply with the billing guidelines when preparing and issuing bills to small customers.
- Allows the billing guidelines to specify the frequency that small customers on standard retail contracts must receive bills.
- Contains objectives for the billing guidelines, for example, to enable small customers to easily understand payment amounts, dates and payment methods for their bill.
- Includes principles that the AER must take into account when developing and amending the guideline
- Requires industry consultation in the development and review of the guidelines.

4 The draft rule also introduces several guideline development principles intended to:

- protect all small customers while enabling retail market innovation, retail competition and consumer choice
- require consideration of the costs to retailers and consumers
- drive effective and proportional billing requirements
- provide for standard language and terminology.

5 In doing so, the draft rule protects consumers while supporting the innovation currently underway in the retail market.

Key context

6 A customer's energy bill is one tool that has been used to achieve multiple functions (pay the bill, understand energy usage and costs, seek help) in the past. Given new technology

options, it is timely to consider how energy bills contribute to the achievement of these functions, and how bills interact with other services and processes to help consumers achieve good outcomes in the energy market.

7 The speed of industry change also indicates that a regulatory mechanism that can keep pace with market developments and consumer preferences is needed. However, the mechanism must also protect consumers.

8 Technological innovation in the energy market is changing how consumers and retailers interact. On digital platforms, such as smart phone applications and web portals, customers can see their past energy usage in detail, close to real time. Retailers can communicate with households and small business customers when a direct debit is due, or a price spike is expected, and vice versa. The introduction of a consumer data right in energy is likely to introduce third parties as digital retail service providers, to help consumers find the best deal.

9 Today's retail market is characterised by a variety of retail offers and consumer preferences. For instance, in regard to technological innovation (smart meters, solar PV, batteries and electric vehicles) and new energy services (virtual power plants, green power). This suggests a one-size fits all approach may not be suitable for billing regulation, at least for all billing purposes, as it may limit retail innovation and consumer choice.

Rationale for the draft rule

10 Having regard to the issues raised in the rule change request and during consultation, the Commission is satisfied that the more preferable draft rule is likely to better contribute to the achievement of the NERO than the rule proposed by the proponent. The more preferable draft rule promotes the NERO as it includes principles that will:

- better promote competition and enable innovation
- provide greater transparency on the guideline development process
- lead to a proportionate and least cost outcome for consumers.

11 The Commission is also satisfied that the more preferable draft rule satisfies the consumer protection test.

12 The Commission considers that the introduction of an AER mandatory guideline with clear billing objectives and guideline development principles is an appropriate response to the billing issues raised by the proponent and stakeholders. A guideline is likely to be more responsive and adaptable to changes in the retail market and consumer preferences, as it is likely to be informed by ongoing expertise developed through the guideline development and monitoring process (rather than via one-off rule change processes). An organisational priority for the AER is boosting consumer and behavioural insights to inform a number of its consumer related functions, including the Retail Pricing Information Guidelines (RPIG), the hardship guideline, its focus on vulnerable customers. Adding the bill guideline requirement to the AER's functions is consistent with its existing and developing expertise in relation to consumer interests. Notably this is also aligned with the priority in the AER's upcoming strategic plan of reducing industry cost to serve.

13 The more preferable draft rule seeks to achieve a number of policy goals, including:

- a regulatory framework that is adaptable over time
- a regulatory framework that protects consumers while enabling innovation and competition
- billing provisions that reflect the variety of offers and consumer preferences in the market (avoiding a 'one-size-fits-all', where possible)
- cost and usage information on bills that helps small customers use energy efficiently, engage in the market and consider investing in self-supply options such as solar and batteries.

14 The Commission considers that the more preferable draft rule is compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers, because the more preferable draft rule establishes a mandatory guideline that will specify requirements that retailers must meet in preparing and issuing bills to small customers. The guideline will establish protections for small customers regarding billing, while also enabling customers to benefit from innovation in the retail market.

15 The Commission has proposed that the AER be required to develop and publish the billing guideline by 1 April 2022 and retailers be required to comply with the billing guideline from 4 August 2022.

16 The Commission invites submissions on this draft rule determination, including the more preferable draft rule, by **4 February 2021**.

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1 THE RULE CHANGE REQUEST

This chapter discusses:

- the rule change request
- key context in the retail market
- issues raised in the rule change request
- the solution proposed by the proponent
- the rule making process
- consultation leading to this draft determination.

1.1 The rule change request

On 16 April 2020, the Honourable Angus Taylor MP, Minister for Energy and Emissions Reduction, on behalf of the Australian Government (the proponent), submitted a rule change request to the Australian Energy Market Commission (AEMC or Commission) to amend the National Energy Retail Rules (NERR). The rule change proposal seeks to amend the NERR to require the AER to develop a mandatory guideline, covering both electricity and gas bills, to help small customers: easily pay their bill; verify the bill calculation and that it conforms to their retail contract; understand how much energy they consume; confidently query or dispute bills; and confidently navigate the market and seek the best offer. The proposal is intended to simplify energy bills so households and small business owners can better understand and manage their energy usage and costs, and find a better energy deal driving improvements in competition.

1.2 Key context in the retail market

Technological innovation has transformed retail energy markets around the world. This section summarises some of the key impacts of technological innovation on Australia's energy retail market which have the potential to significantly affect the utility of bills and the approach to billing regulation.

1.2.1 The future role of billing

As noted in the consultation paper and supported by stakeholders in submissions, energy bills currently serve multiple purposes.¹ Bills currently help small customers:

1. pay their bill (by several methods)
2. understand how the amount owing is calculated and whether it conforms to their retail contract
3. understand their energy consumption and costs in order to:
 - a. save money and use energy efficiently in the future

¹ AEMC, Bill contents and billing requirements, consultation paper, 24 September 2020, p. 4. Submissions to consultation paper: Alinta, pp. 1-2; Momentum, p. 1; Next Energy Business, p. 1; ERM Power, p. 2; QCOSS, pp. 4-5.

- b. compare their customer retail contract with other energy offers
 - c. make informed decisions on self-supply options for energy generation and storage
4. identify how to query or dispute their bill, access interpreter services and seek financial assistance.

Appendix A presents the current billing provisions arranged by bill purpose. A key contextual issue is how well bills can achieve or contribute to these purposes into the future.

1.2.2

A 'one-size-fits-all' approach may not be suitable for all purposes

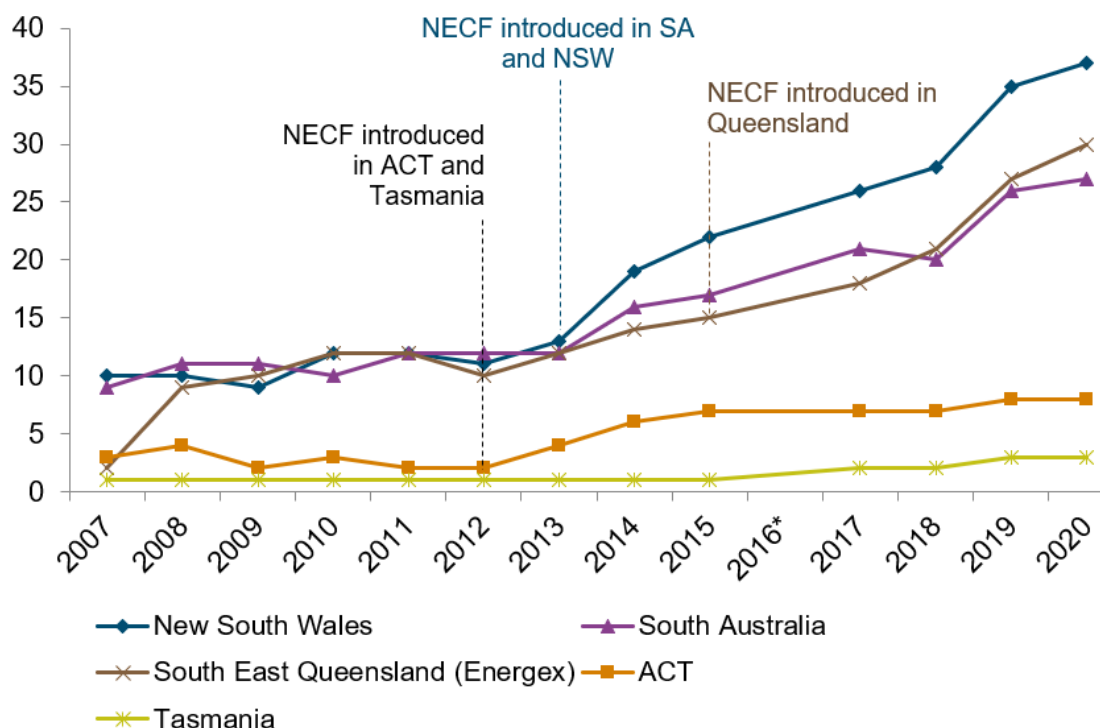
Today's retail market is characterised by a variety of retailer offers and consumer preferences. This suggests a one-size fits all approach may not be suitable for billing regulation, at least for all billing purposes above, as it may limit retail innovation and consumer choice.

Variety in retail plans

Retail markets today are very different to the market in 2012, when the current billing rules were first introduced. In the past eight years the number of retailers in contestable jurisdictions has more than doubled (see Figure 1.1). The number of plans available to small customers has also increased significantly. To illustrate, in March 2020, a small customer with a smart meter in the Ausgrid area could choose from 353 different time-of-use and single rate offers, compared with only 143 in 2017.²

² Based on the number of time of use and single rate offers from Energy Made Easy in February 2017 and March 2020.

Figure 1.1: Number of active retailers for small customers



Source: AER State of the Energy Market 2007-2020
Note: *Data is unavailable for 2016.

The variety of retail plans has also increased, offering different benefits to customers and reflecting market innovation. Plans vary by factors including tariff type (for example, single rate, time-of-use, demand, wholesale market exposed), low-emission options (for example, GreenPower), and payment method (pre-paid and direct debit). There is a trend towards more time-varying offers accessible to those who own or purchase behind-the-meter technology such as solar PV or a battery,³ given the predicted increase in behind-the-meter assets (such as PV capacity which is forecast to increase by 80% over the next 10 years).⁴ The increase in solar PV to date has resulted in a doubling of offers that include feed-in tariff rates in the Ausgrid area, from 23 in 2017 to 46 in 2020.⁵

Also, 'bundled' offers, combining electricity, gas and internet services, is also growing. Origin Energy, Sumo Power and Click Energy/Amaysim, for instance, offer telecommunication (mobile phone and home internet) products alongside their energy products.⁶ Currently, the

3 AEMC, 2020 Retail Energy Competition Review, p. 70.

4 AEMO 2020 ESOO, Central scenario.

5 Based on unique feed-in tariff rates from *Energy Made Easy* offers in the Ausgrid distribution area in February 2017 and March 2020.

6 AEMC, 2020 Retail Energy Competition Review, p. 42.

rules allow these services to be part of an energy bill if they are separately itemised on the bill, so consumers can understand the cost of these additional services.⁷

Variety in billing forms

Retailers are offering a variety of tariffs with different billing information and delivery methods. Customer take-up of these offers suggests they are willing to move away from traditional billing information formats and delivery methods. Energy bills are now reflecting the differences in consumer preferences: their uptake of technological innovation (smart meters, solar PV, batteries and electric vehicles) and new energy services (virtual power plants, green power). Some customers would like to know usage and costs by time of day, charging and exporting times and volumes, or the percent of green energy used, while for others this information is not important. These informational needs also have implications for the appropriate communication method.

Retailer innovation and customer choice have resulted in a range of energy bills varying by factors including:

- Delivery mode - a material proportion of small customers now receive a PDF of a bill (e-bills) rather than paper bills delivered by post.⁸
- Frequency - monthly billing is common in some geographical areas. A 2020 Canstar survey found 20 per cent of households receive their energy bills monthly.⁹ Over 300 offers are available for monthly electricity bills in suburban Sydney and 250 offers in regional NSW. In Brisbane 230 plans are offered with monthly billing.¹⁰
- Additional information within a bill - some retailers use bills to communicate their environmental credentials, while others highlight their digital services, changes to a plan's terms and conditions, or reminders about payment assistance during COVID-19.
- Overall format - for instance the balance between graphical and text-based information.
- Additional information external to a bill - some retailers offer general educational material such as a billing guide on their website or granular historical and real-time usage via mobile applications and web portals.

The variety in energy retail offers and bills in the current market reflects differences between retailers and consumer preferences. This suggests that prescribing billing requirements in more detail than at present or across all billing purposes, a 'one-size-fits-all' approach, has the potential to limit retail innovation and consumer choice.

7 NERR, rule 25(2).

8 Confidential data provided by stakeholders to the Commission.

9 <https://www.canstarblue.com.au/electricity/energy-billing-options/>, accessed 27/11/2020.

10 Searches on Energy Made Easy and Canstar, 23/11/2020.

1.2.3 Providing a safety-net while enabling innovation

Diversification in the retailer-customer interface

The frequency, means of communication and engagement between retailers and consumers is diversifying. Technological innovation - digitalisation, smart meters, data access rights, third-party service providers - is changing how retailers and consumers engage.

The 'Smart Decade' has globally transformed the interface between retailers and consumers. In 2012, when the current billing rules were introduced, only 37 per cent of Australians owned smart phones.¹¹ By 2019, smart phone penetration was 91 per cent.¹² We are now at 'peak' penetration, with "Australians aged over 55, as well as those based in Western Australia and Queensland, the last cohorts to jump on board."¹³

As in other retail sectors, energy consumers are conducting business and accessing information in the way that is most efficient and convenient for them. For example, customers are signing up to:

- direct debit arrangements for their energy bill
- notifications of upcoming payments by SMS or in mobile applications
- e-mails and e-bills highlighting the bill amount to be debited and the debit date.

New digital platforms allow two-way and instant communication between a customer and the retailer. Customers are accessing granular and recent usage data via apps or online portals. A wholesale-exposed customer can get an SMS or app-based alert of an upcoming price spike. Meridian Energy reports that consumers access apps and web portals on average three times per month, indicating multiple engagement points for customers outside the periodic billing cycles.¹⁴

How a retailer communicates and engages with customers will vary with a retailer's business model (e.g. small business focus, chiefly digital offering). Small customers also have different preferences in terms of the mode and content of bills. What is clear is that it can no longer be assumed that periodic bills are the sole, most frequent or most useful, way that a customer gets their information.

Authorised third party access will help consumers find the best deal

In the future, the retailer-customer interface is likely to change further. The scheduled implementation of a consumer data right (CDR) will raise the prominence of third parties in consumers' retail experience, and help consumers find the best deal.

The CDR aims to help customers identify suitable energy products and services by customers sharing their energy data with a third party. This third party could offer services; from helping a customer check their energy bill to automatically switching them to a better retail plan under authorisation. The Commission has recommended that the CDR in the energy market

11 Google survey, cited in Sydney Morning Herald 8/9/2011, <https://www.smh.com.au/technology/australias-white-hot-smartphone-revolution-20110908-1jz3k.html> accessed 27/11/2020.

12 Deloitte (2019), Mobile Consumer Survey 2019, p1.

13 Ibid, p.9.

14 Correspondence from Meridian Energy to the AEMC, 24 November 2020.

introduces a mechanism to allow an authorised third party to act on behalf of a consumer to switch a consumer from one retailer to another (known as 'write' access in the CDR).¹⁵ Given the number and variety of plans consumers face when looking for a better retail contract, the Commission's view is that empowering consumers to use a CDR with authorised third party access has the potential to substantially improve a customer's ability to compare and switch between products and services.

1.2.4

Summary

Innovation in the energy market is changing the way consumers and retailers interact. Consumers are at the heart of these changes. The bill is one tool that has been used to achieve multiple functions in the past. With new technological tools available to consumers, it is relevant to consider whether the role of energy bills in achieving those functions is changing. If that is the case, billing requirements must adapt to these changes. This means it is important to consider whether the rules or a guideline is the best mechanism to keep pace with the market developments and consumer preferences. However, billing requirements must also protect consumers.

1.3

Issues raised in the rule change request

The proponent's rule change request stated that the current rules do not deliver bills that energy consumers can easily understand and this is leading to confusion and frustration for many consumers. The proponent also considered the current rules do not utilise the potential of bills to help customers navigate the retail market, for instance to help them compare available offers.

The proponent's rule change request identified several key drivers of consumer confusion and low retail engagement. These were: the absence of standard nomenclature and consistent bill formats across the retail sector, too much unnecessary and complex content being included on bills, and the lack of references to key support tools and services (such as Energy Made Easy).

The proponent also expressed a concern that the rules do not stipulate how a bill should be delivered to small customers. The concern is that small customers should always be able to choose to have a paper bill if that is their preference.

1.4

Solution proposed in the rule change request

The rule change request proposed that the NERR be amended to replace the existing billing requirements rule (Rule 25) with provisions requiring the AER to develop a mandatory guideline. This AER guideline would apply to both gas and electricity billing, for households and small businesses.

¹⁵ See AEMC, Retail Competition Review 2020, Recommendation 8, p. xix and pp. 236 - 238. The Commission also committed to continue to engage with the Commonwealth Treasury, Australian Competition and Consumer Commission and Data61 to develop the CDR in the energy market.

The proponent's proposal is for the AER to develop the guideline seeking to achieve a billing objective and having regard to a guideline objective and supporting principles, set out in the NERR.

The AER could specify in the guideline:

- requirements including bill form, content and delivery mode
- any other requirements the AER considered necessary to give effect to the guideline objective and principles
- variable requirements (including by customer type, energy type, or jurisdictional application, tariff types, billing timeframes, and mode of delivery).

The proposed rule would also allow the AER to publish a sample bill or an explanation of key terms in a retail bill.

The proponent proposed a civil penalty if a retailer fails to comply with the AER guidelines, as a deterrent to non-compliance. The rule would apply to both standard retail and market retail contracts.

The proponent's rule change request noted that while the rule should commence promptly, the Commission should consider the research and consumer testing required when determining transitional requirements and the timing of implementation. The proponent also advocated for industry collaboration in the development of the AER guideline.

Finally, the proponent's rule change request recommended that it may be important to consider the rule change request in the context of the broader information provision regulatory framework. For instance, amendments to requirements regarding bill frequency (Rule 24).

The rule change request includes a proposed rule, and is available on the AEMC website, www.aemc.gov.au.

1.5 The rule making process

On 24 September, the Commission published a notice advising of its commencement of the rule making process and consultation in respect of the rule change request.¹⁶ A consultation paper identifying specific issues for consultation was also published. Submissions closed on 22 October.

The Commission received 27 submissions as part of the first round of consultation. The Commission considered all issues raised by stakeholders in submissions. Issues raised in submissions are discussed and responded to throughout this draft rule determination. Issues that are not addressed in the body of this document are set out and addressed in appendix B.

¹⁶ This notice was published under s. 251 of the National Energy Retail Law (NERL).

1.6 Consultation on draft rule determination

The Commission invites submissions on this draft rule determination, including the more preferable draft rule, by **4 February 2021**.

Any person or body may request that the Commission hold a public hearing in relation to the draft rule determination. Any request for a public hearing must be made in writing and must be received by the Commission no later than 12pm, 24 December 2020.

Submissions and requests for a hearing should quote project number **RRC0036** and may be lodged online at www.aemc.gov.au.

2 BILLING ISSUES

Overview

The major billing concerns raised by the proponent related to the absence of standard nomenclature and consistent bill formats across the retail sector, too much unnecessary and complex content being included on bills, and inadequate references to key support tools and services (such as Energy Made Easy).

There was also concern that the rules do not stipulate how a bill is issued or delivered to small customers. The Commission sought feedback from stakeholders in the consultation paper on the materiality of these issues on the ability of billing to achieve or contribute to its various purposes.

Feedback suggests that there is only uniform agreement among most stakeholders on the benefits of introducing standard language and key terminology across the retail sector. There are differing views on bill format, content and delivery, which could benefit from an opportunity to test in more detail the range and specifics of concerns, and their materiality.

Consistent with the proponent's concerns, the Commission has grouped feedback from stakeholders into the following four areas:

- Language and terminology: standard nomenclature, language and terms across the retail sector
- Bill format: consistency in bill formats across the retail sector
- Content requirements: the information and data contained in bills, opportunities for reducing this, additional references to support services and tools
- Delivery of energy bills: delivery requirements for energy bills.

2.1 Language and terminology

2.1.1

Proponent's views

The proponent highlighted that the current rule does not stipulate standard nomenclature for retail energy bills. As a result, retailers describe similar tariffs in different ways. For instance, the rule change request notes that different retailers may use the terms 'supply charge', 'service to property charge', 'service charge' or 'fixed charge' to refer to the same tariff. The use of accounting or technical terms further confuses many consumers. The proponent's concern is that consumers cannot understand their bill and, in particular, are unable to compare offers in the retail market.

2.1.2

Stakeholders' views

Stakeholders generally agreed that consumers find language and terminology confusing.¹⁷ Many stakeholders considered that improvement in this aspect of billing is needed and would be likely to significantly help consumers understand their own bills.¹⁸ Stakeholders also

¹⁷ Submissions to consultation paper: PIAC pp. 1-3; QCOSS, p.4-9; ReAmped, pp. 1-2; The Project Energy, p. 5; Next Business Energy 2; Origin p. 3.

mentioned that it is important to focus on key terms and language, and provide consistency in terminology and language sector-wide across offers, plans and billing -- that is across the consumer experience -- not just across billing.¹⁹

Consumer advocates, such as ombudsman schemes, included qualitative evidence from case managers on customer complaints and disputes with retailers on consumer issues with language and terminology.²⁰ A key issue that is making it hard for consumers and their advocates to understand their bills is differences in the terms to describe the same component within the one bill. Ombudsmen and social service agencies also noted that 'Service Availability Charge', 'Control load tariffs', 'Off-peak tariff', and 'Common Factor' (on gas bills) are terms often expressed differently by different retailers.²¹

Several consumer representatives highlighted that accounting terms and acronyms are also causing confusion.²² Ombudsman schemes reported that the common use of acronyms 'CR' (credit) and 'DB' (debit) as opposed to dollar (\$) terms has led to some consumers being unable to identify the amount owing on their bills. It was also highlighted that the acronym 'KWh' is not familiar to most consumers, and would be better expressed in full or with a definition explaining the acronym in terms that are relatable to consumers' lives.²³

Accurassi, a digital solutions firm, stated that the degree of variation across bill terminology led to the rejection of a manual entry option when developing the NSW Energy Switch platform. The inability of consumers to identify their key bill information when filling in the form on the switching website, led Accurassi to abandon a manual self-service approach. They then trialled the approach of training NSW government service staff to interpret and input bill information on consumers' behalf. The incongruity between different billing terms and language across bills meant that even trained government staff were unable to consistently identify elements as simple as 'usage' and 'amount payable'.²⁴

2.1.3

Conclusion

The broad consensus of stakeholders is that a lack of clear and consistent language and terminology across energy bills is causing confusion amongst small customers, and customer advocates. Stakeholders are particularly concerned about terms related to the basic purposes of the bill — paying the amount owing and understanding why their bill amount is what it is. The high degree of consensus on the issue suggests this is an issue where some standardisation would be of benefit.

18 Submissions to consultation paper: Ergon, p. 1; Joint submission EWON, EWOV, EWOSA, EWOQ, p. 11; Combined pensioners and superannuants association Inc., p. 1; ReAmped, p. 2; PIAC, p. 1; QCOSS, p. 7; The Energy Project, p. 5; AER, p. 2; Department for Energy and Mining South Australia, p.2.

19 Submissions to consultation paper: QCOSS, p. 7; Meridian, p. 2; Origin, p. 3; Australian Energy Council, pp. 5-7; AGL, p. 3.

20 EWON, EWOV, EWOSA, EWOQ, joint submissions to consultation paper, pp. 3-4.

21 Submissions to consultation paper: EWON, EWOV, EWOSA, EWOQ, p. 11; QCOSS, p. 11.

22 Submissions to consultation paper: Joint submission EWON, EWOSA, EWOQ and EWOV, p. 11; PIAC, p. 3; QCOSS, pp. 10-11.

23 EWON, EWOSA, EWOQ and EWOV, joint submission to consultation paper, p. 11.

24 Accurassi, submission to consultation paper, 2.

2.2 Format

The Commission sought stakeholder feedback on the proponent's concern about the absence of consistent bill formats across the energy sector. This section outlines the different views from stakeholders.

2.2.1 Proponent's views

The proponent expressed concern about two negative impacts resulting from inconsistent bill formats:

1. consumers can not easily understand their bill, and
2. consumers are unable to compare energy offers in the market.

2.2.2 Stakeholders' views

Stakeholders have differing views about the materiality of this issue.

Stakeholder concerns with format

Stakeholders that considered bill format to be a material issue raised a number of presentation issues that, if rectified, would make bills easier to understand. The key issues included:

- bills being hard to read due to light coloured and small sized fonts and excessive use of shading²⁵
- inappropriate spacing, with the density of information being a common complaint²⁶
- an illogical flow of information, with important information difficult to locate on an excessive number of pages.²⁷

The Energy Project shared the results of a review of billing templates currently used by Tier 1 and Tier 2 retailers²⁸ and concluded the front page is the most important page of the bill. This is because it is often the only page that consumers will read. The Energy Project argued that the first page should contain essential information only, with all other information, including "retailer messaging" moved to subsequent pages.²⁹

ACTCOSS emphasised that shortfalls in the bill are not due to 'too much complex data', but to the presentation of this data in confusing ways. ACTCOSS was supportive of standard formatting that would *"provide a logical flow that progresses from key information, through to additional elements of information that may be required less frequently for some consumers"*.³⁰

25 Submissions to consultation paper: AER, p. 2; The Energy project, p. 4; PIAC, p. 7; QCOSS, p. 8.

26 Submissions to consultation paper: SACOSS, p. 1; The Energy Project, p. 4; EnergyAustralia, p. 2; ReAmped, p.1; Department for Energy and Mining South Australia, p. 3.

27 Submissions to consultation paper: QCOSS, pp.7-8; ACTCOSS, p. 2; Alinta, pp. 1-2; Origin, p. 2; Accurassi, p. 1; Joint submission EWON, EWOV, EWOSA, EWOQ, p. 12; Energy Australia, p. 2; The Energy Project, p. 4.

28 AGL, Energy Australia, Origin Energy (Tier 1), Alinta Energy, Energy Locals, Lumo, Simply Energy (Tier 2).

29 The Energy Project, submission to consultation paper, p. 4.

30 ACTCOSS, submission to consultation paper, p. 2.

Consumer representatives agreed with the proponent that poor bill formatting makes it hard for some customers to understand what payments are required by when.³¹ This was seen also seen as a factor hindering customers find a better plan.³² Stakeholders also mentioned that information that indicates an energy bill is based on an estimated meter read is not clear or it is hard to find in a bill.³³

Some consumer representatives agreed with the proponent that inconsistencies in format across bills from different retailers make it difficult for customers to understand their bill and creates confusion.³⁴ For example, stakeholders noted that inconsistencies on where the information is sitting in the bill (e.g. tariffs and amount consumed) or the differences in graphs between retailers (e.g. bill benchmarks), makes it difficult for consumers to get used to a new retailer's bill every time they switch.³⁵ Stakeholders such as QCOSS noted that poor bill design results in consumers becoming 'trapped' in contractual arrangements.³⁶ This has implications for the level of competition in the retail market.

Stakeholders' positive feedback on bill format

Not all stakeholders agreed that the format of bills was problematic or required change. Inconsistent bill formats were not seen as a problem and standardisation of formats was not seen as the solution.³⁷

Several retailers highlighted the positive consumer feedback they had received on the clarity of their bills. Origin stated that complaints received tended to be more focused on content — for example, amount charged — as opposed to the design of the bill itself.³⁸ Similarly, Meridian cited positive feedback received from consumers regarding the clarity of Powershop bills and stated that enquiries or complaints generally concern the amount of the bill as opposed to any concerns regarding its format.³⁹ ERM Power highlighted the subjectivity of consumer preferences for bill design, suggesting that retailers' ability to innovate and tailor bills specifically to their customers' needs would be more likely to provide clarity to consumers than a one-size-fits-all approach.⁴⁰

2.2.3

Conclusion

Stakeholder views differed on the materiality of not having consistent bill formats across the energy sector. Many consumer representatives and the AER agreed that bill formats are making it hard for some consumers to understand their bills, and inconsistency in formats across retailers could be a barrier to customers switching to more favourable tariffs. By contrast, several retailers highlighted that consumers were satisfied with the format of their

31 QCOSS, submission to consultation paper, p. 12.

32 Ibid.

33 Submissions to consultation paper: Joint submission EWON, EWOV, EWOSA, EWOQ, p. 9; QCOSS, p. 11.

34 Submissions to consultation paper: Joint submissions EWON, EWOV, EWOSA, EWOQ, p. 13; QCOSS, 5.

35 Submissions to consultation paper: QCOSS, p. 8; Combines Pensioners and Superannuants Association Inc., p. 2.

36 QCOSS, submission to consultation paper, p. 12.

37 Submissions to consultation paper: Alinta, pp. 1-2; Origin, p. 2; Accurassi, p. 1; Energy Australia, p. 2; The Energy Project, p. 4.

38 *Origin*, submission to consultation paper, p. 2.

39 *MEA Group*, submission to consultation paper, p. 3.

40 *ERM Power*, submission to consultation paper, p. 2.

bills and in general, retailers do not consider a standard bill format to be an appropriate response to bill confusion.

2.3 Content

2.3.1 Proponent's view

The rule change request noted two main issues regarding bill contents. First, that some information in energy bills "*may lead to unnecessary complexity and be of little interest or value to customers*". The main concern is that this may be a "*source of frustration leading to sub-optimal outcomes for consumers in this market*".⁴¹ Second, the proponent suggested that a bill should include additional content, such as a specific reference to the Energy Made Easy website or a link to energy ombudsman schemes.⁴²

2.3.2 Stakeholders' views

Most stakeholders agreed that consumers are confused by the amount of information presented in energy bills.⁴³ However, in general stakeholders identified only one specific content area to remove from bills.

Several stakeholders questioned the utility of the 'bill benchmarks' information.⁴⁴ Benchmarks are intended to allow customers to compare their household energy usage with similar households in their area.⁴⁵ However, stakeholders noted that this information is a source of consumer confusion.⁴⁶ For example, ombudsman schemes noted benchmarks in energy bills "are the basis of many high billing complaints received by the Energy Ombudsman" and do not provide information for a "meaningful comparison".⁴⁷ Accurassi noted current billing requirements, specifically bill benchmarks, are too static and are not providing useful insights into household usage. It was proposed that including more personalised (e.g. taking into account the house type), detailed data (e.g. typical load pattern for weekdays and comparing this to similar households)⁴⁸ or a comparison of their usage and costs year by year may be more helpful.⁴⁹ Another stakeholder noted that this information could improve by being updated more often.⁵⁰

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- 41 Hon. Angus Taylor MP, Minister for Energy and Emissions Reduction, Rule change request, *Bill contents and billing requirements*, 17 April 2020, p. 4.
- 42 Hon. Angus Taylor MP, Minister for Energy and Emissions Reduction, Rule change request, *Bill contents and billing requirements*, 17 April 2020, p. 5.
- 43 Submission to consultation paper: AER, p. 2; Joint submission ombudsman schemes, p. 10; Department for Energy and Mining South Australia, pp. 1-3; Ergon Energy Queensland, p. 1; Australian Energy Council, pp. 1, 3; AGL, p. 1; Alinta p. 1; Aurora p. 2; Combined Pensioners and Superannuants Association of NSW Inc., p. 1; EnergyAustralia, pp. 1-2; Energy Consumer Australia, pp.1-2; Energy Queensland, p. 4; Meridian Energy, p.1; Momentum, p. 2.
- 44 Submissions to consultation paper: Joint submission EWON, EWOV, EWOSA, EWOQ, p. 5; Accurassi, p. 2; Meridian-Powershop, p. 2; Next Energy Business, Template p. 2; Ergon Energy, p. 2.
- 45 AER's benchmark website: <https://www.aer.gov.au/retail-markets/guidelines-reviews/electricity-and-gas-bill-benchmarks-for-residential-customers-2017>
- 46 Ibid.
- 47 Joint submission to consultation paper by EWON, EWOV, EWOSA, EWOQ, p. 5.
- 48 Accurassi, Submission to consultation paper, p. 2.
- 49 AGL, submission to consultation paper, p. 5.
- 50 Meridian, submission to consultation paper, p. 2.

Some stakeholders were reluctant to add more content in bills.⁵¹ Others highlighted specific additional content for consideration.

Paying the bill amount

Regarding the main function of paying a bill and understanding its calculation, the following suggestions were made:

- Stakeholders noted consumers find it difficult to understand the amount payable, specially when there are other amounts (credits) to consider from concessions, discounts, payment plans or previous billing periods.⁵² Ombudsman schemes highlighted they receive many complaints about the total amount payable and issues related to customer payment plans, new charges, carry-over charges, GST, discounts, rebilling and bill smoothing.⁵³
- Some stakeholders also noted that consumers have difficulties in understanding their tariffs.⁵⁴ Consumer representatives highlighted difficulty with solar tariffs and new tariff structures.⁵⁵ The call for more clarity on the tariff structure, like time-of-use tariffs, was echoed by others.⁵⁶ One proposed solution would be to include a clearer breakdown of tariff information (e.g. at what point energy tariffs change) in the customers' bill.⁵⁷ Another proposal was to include information on how tariffs change and explicitly state how consumers can compare these with tariff changes across the market.⁵⁸

Understanding energy usage and costs - to manage bills, assess distributed energy resources (DER) and engage in the retail market

A number of stakeholders see an opportunity to improve information on energy usage and costs.⁵⁹ On energy usage, ombudsman schemes noted that including consumption for each monthly period over the last 12 months in a graph format could help consumers better understand their historical usage.⁶⁰ Powerpal suggested including a machine readable QR code in the bill that would direct consumers to minimum billing information and other mandatory requirements.⁶¹ Consumer representatives noted that it may be helpful to include information on where to find energy efficiency or energy saving tips.⁶²

51 Submissions to consultation paper: Joint submission EWON, EWOV, EWOSA, EWOQ, p. 4; EnergyAustralia, p. 2; ERM power, p. 2.

52 Submissions to consultation paper: Joint submission EWON, EWOV, EWOSA, EWOQ, pp. 3-4; QCOSS, p. 11; Department for Energy and Mining South Australia, p. 3; Ergon, p. 2.

53 Joint submission EWON, EWOV, EWOSA, EWOQ, submission to consultation paper, p. 3.

54 Submissions to consultation paper: Powerpal, p. 1; Accurassi, p. 1; ACTCOSS, p. 3; PIAC, p. 2; Department for Energy and Mining South Australia, p. 3.

55 Submissions to consultation paper: PIAC, p. 4; Joint submission EWON, EWOV, EWOSA, EWOQ, p. 11, ACTCOSS, p. 2; Next Business Energy, p. 3.

56 Submissions to consultation paper: Accurassi, p. 1; ACTCOSS, p. 2; Joint submission EWON, EWOV, EWOSA, EWOQ, pp. 3, 10; PIAC, pp. 2-3; QCOSS, p. 11.

57 Submissions to consultation paper: Origin, p. 2; AER, p. 3.

58 PIAC, submission to consultation paper, p. 7.

59 Submissions to consultation paper: PIAC, p. 3, Joint submission EWON, EWOV, EWOSA, EWOQ, pp. 5-11; AER, pp. 2-3; Origin, p. 2; Accurassi, p.1; TASCOS, p. 5; Powerpal, p. 1.

60 Joint submission EWON, EWOV, EWOSA, EWOQ, pp. 5-7.

61 Powerpal, submission to consultation paper, p. 2.

62 Submissions to consultation paper: TASCOS, p. 1; AER, p. 2.

Stakeholders also noted that there is an opportunity to integrate and coordinate the information received in bills and more granular information that is sent to consumers by other means, such as mobile applications, to improve the overall consumer experience.⁶³

In terms of retail market engagement, some consumer representatives suggested including an explanation of the Default Market Offer (DMO)⁶⁴ and information on better offers.⁶⁵ Some consumer groups agreed that including information on how to access Energy Made Easy (EME, as per the rule change request) could be helpful.⁶⁶

Seeking assistance

Some stakeholders favoured including a link or contact number to ombudsmen schemes.⁶⁷ Others had a contrary view⁶⁸, arguing that the retailer should be first point of contact for a complaint and having this information in the bill could result in consumers contacting ombudsman schemes without first reaching out to their retailer.⁶⁹ The Australian Competition and Consumer Commission (ACCC) analysed this suggestion in 2018 reaching the same conclusion. Retailers should be the first point of contact and this information may change this approach.⁷⁰ The ACCC also noted that the NERR currently includes a number of requirements where retailers must alert consumers about their rights to access ombudsman schemes⁷¹ and that this information is also easy to find in online searching tools.⁷²

Currently, the NERR require energy retailers to include a reference to the availability of government funded energy charge rebate, concession or relief schemes.⁷³ Some consumer representatives suggested it would be useful to include more specific information on where to find the retailer's hardship policy, how to access payment assistance or information on *Centrepay*.⁷⁴ Stakeholders also suggested including more specific information on available concessions or rebates and how to access these.⁷⁵ Regarding rebates and concessions it was mentioned that these schemes vary across jurisdictions or do not apply to all customers.⁷⁶

63 Submissions to consultation paper: Aurora, p. 2; Meridian, pp. 2-4; Australian Energy Council, p. 3.

64 Default market offer (DMO) prices apply to standing offer customers on relevant tariffs, in network distribution regions not subject to state-based price regulation. The DMO prices also serve as a basis for calculating the reference bill for residential customers and small customers. For further information please visit the AER's [website](#).

65 Combined Pensioners and Superannuants Association of NSW Inc., pp. 3-4; PIAC, p. 7; ACTCOSS, p. 2.

66 Submissions to consultation paper: ACTCOSS, 2; Combined Pensioners and Superannuants Association of NSW Inc., p. 3; PIAC, p. 2; Department for Energy and Mining South Australia, p. 3.

67 Submissions to consultation paper: Joint submission by EWON, EWOV, EWOSA, EWOQ, p. 5; PIAC, p. 2; SACOSS; p.7; ACTCOSS, p. 2.

68 Submissions to consultation paper: Aurora, p. 2; QCOSS, p. 4; TASCOS, p. 4.

69 Submission to consultation paper: Aurora, p.2, TASCOS, p. 4.

70 ACCC, Retail Electricity Pricing Inquiry, final report, June 2018, p. 290.

71 In market contracts (NERR, rule 50), on retailers' websites (NERR, rule 56), before a consumer enter into a contract with an electricity retailer, or as soon as possible afterwards (NERR, rule 64), in disconnection warning notices (NERR, rule 110).

72 ACCC, Retail Electricity Pricing Inquiry, final report, June 2018, p. 290.

73 NERR, rule 25(s).

74 Submissions to consultation paper: SACOSS, pp. 1-6; ACTCOSS, p. 2; QCOSS, p. 11.

75 Submissions to consultation paper: Combined Pensioners and Superannuants Association of NSW Inc., p. 3; TASCOS, p. 1.

76 Submissions to consultation paper: AGL, p. 2; Ergon, p. 2.

2.3.3

Conclusion

The Commission has considered stakeholders' views on the content of energy bills, and the materiality of these issues. Generally stakeholders supported the content that currently needs to be included in bills, even though most agreed that consumers find the volume of content confusing. There were few proposals for content to be removed, suggesting most stakeholders find the current information provided to small customers in bills a useful information set. Stakeholders offered suggestions for additional information spanning the range of bill functions.

A number of stakeholders recommended classifying bill content requirements into two tiers.⁷⁷ Tier 1 information would be key information that must be in a bill and is identified to be a priority for consumers. For example, information related to what payment is needed and where to seek help. Tier 2 would be information that is helpful to consumers and *could* be provided through other means to better achieve its purpose (eg. an app with energy consumption information) or could be provided in the last page of the bill.⁷⁸ The Commission considers this approach could be a useful way to address consumer needs by considering differences in consumers' technological preferences (e.g. mobile applications, online websites) and information availability (e.g. smart meters) and needs (i.e. depending on whether they are interested in checking their consumption or looking for a better energy deal).

As noted by the proponent and the ACCC, since the NECF was introduced bill content requirements have not been reviewed holistically.⁷⁹ The issues raised by stakeholders indicate that while bill contents are generally fit-for-purpose, further research is needed to address: the tension between potential information overload and the need for additional content, and; the potential to use voluntary opt-out options for certain billing information, provided it is available to consumers on another platform. Key considerations in examining these issues should be how to deliver information that meets consumer needs given the rapid evolution of the market and technological change, and the differences between consumers.

The Commission makes the following comments on the specific issues raised by stakeholders:

- **Bill benchmarks:** the NERR require the AER to update retail consumption benchmarks at least every three years.⁸⁰ The AER has commissioned Frontier Economics to update these for 2020 and the report and AER's guidance will be published by December 2020. The AER will be updating bill benchmarks and this may help address some stakeholders' concerns.⁸¹

77 Submissions to consultation paper: Joint submission EWON, EWOV, EWOSA, EWOQ, pp. 9-11; PIAC, pp. 8-9; AGL, pp. 7-8; Origin, p. 1; Meridian, pp. 2-5; Australian Energy Council, pp. 2-6; Ergon, p. 7; Momentum, pp. 2-3; The Energy Project, p. 4.

78 Submissions to consultation paper: Joint submission EWON, EWOV, EWOSA, EWOQ, pp. 9-11; AGL, p. 7; Origin, p. 1; Meridian, p. 5; Australian Energy Council, pp. 2-6; Ergon, p. 7; Momentum, p. 2; The Energy Project, p. 4.

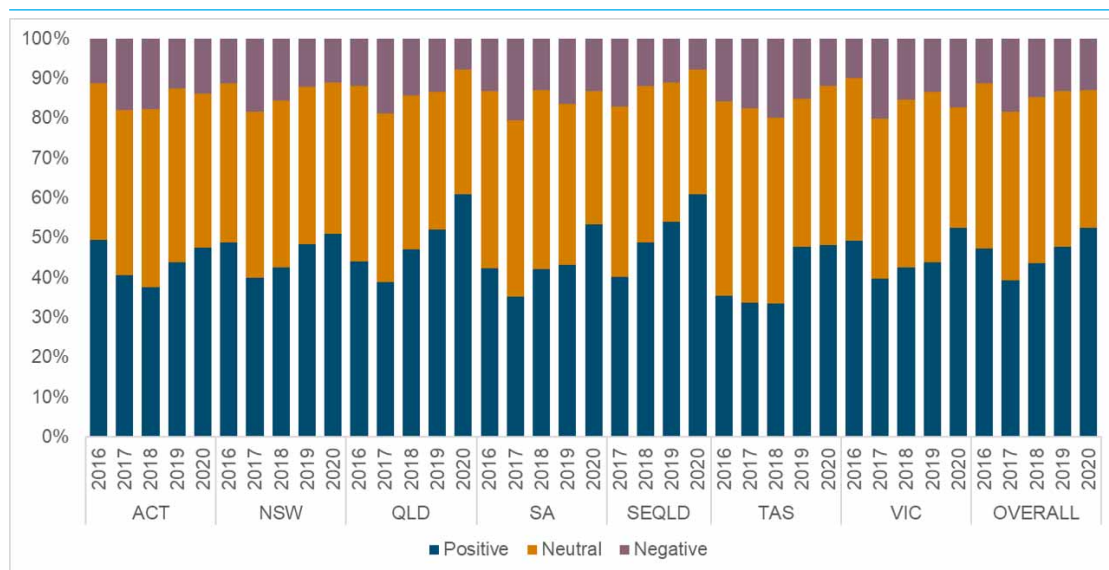
79 Hon. Angus Taylor MP, Minister for Energy and Emissions Reduction, Rule change request, *Bill contents and billing requirements*, 17 April 2020, p. 4.; ACCC, Retail Electricity Pricing Inquiry, June 2018, p. 87.

80 NERR, rule 169(5).

81 AER, Electricity and gas consumption benchmarks for residential customers, <https://www.aer.gov.au/retail-markets/guidelines-reviews/electricity-and-gas-consumption-benchmarks-for-residential-customers-2020>.

- Energy efficiency website: the NERR currently require energy bills to include a reference to an energy efficiency website.⁸²
- Ombudsmen: the rule change request proposed including a link to ombudsman scheme websites to raise consumer awareness of dispute resolution mechanisms available to them. Energy Consumers Australia's consumer sentiment survey has been tracking how confident consumers are to get a problem resolved with their energy retailer or a third party, such as ombudsman schemes. From the survey, approximately 50 per cent of energy consumers are 'positive' in relation to their confidence to resolve a problem through the mechanisms available to them, including third parties such as ombudsman schemes (Figure 2.1). Only around 10 per of those surveyed are not confident ('negative').

Figure 2.1: Consumer confidence with dispute resolution mechanisms



Source: Energy Consumers Australia, Consumer Sentiment Survey, 2020.

- Smart meters and granular energy usage: given the increasing uptake of smart meters, more detailed information will become available to more consumers on energy usage. Smart meters, access to data (CDR), better third party service providers and algorithms will help consumers understand their usage, search for better deals, decide to invest in DER, empowering them in more efficient ways than via static information on an energy bill.

2.4

2.4.1

Delivery mode and frequency of energy bills

Proponent's view

The rule change request indicated that the rules do not contain requirements on how energy bills are issued or delivered to consumers. The proponent suggested this requires regulatory

⁸² NERR, rule 170(4).

consideration given the recent trend of retailers using applications, web portals and email to provide small consumers with consumption data and billing information. The concern is that, today and in the future, consumers should always have access to a paper bill if that is their preference.⁸³

The rule change request also noted that the Commission may consider provisions related to the frequency of energy bills (Rule 24).⁸⁴ The consultation paper sought feedback on this issue.

2.4.2 Stakeholders' views

Delivery mode

In general, stakeholders noted that customers are quickly moving to digital means.⁸⁵ Stakeholders also noted that the uptake of technology has enabled new services and facilitated interactive services being offered to consumers, including bill delivery.⁸⁶ Ombudsman schemes mentioned that Powershop, a digitally focused retailer, provides useful information to consumers through its mobile application. This includes features to help customers manage their energy needs, including controlling and understanding their electricity usage, buying power in advance, providing payment reminders and managing their account information.⁸⁷

Regarding consumer choice, many stakeholders highlighted that consumer choice should be the key principle driving how bills should be delivered, and that consumers should always have the option to access paper bills.⁸⁸ Many retailers consider the current rules are suitable as they provide choice to consumers. Most retailers highlighted that they currently provide the option of paper bills⁸⁹ and therefore, no changes are required on this matter.⁹⁰

Given consumers' uptake of new modes of information delivery, flexibility was a key theme in submissions. Some retailers noted that current rules could change to provide more flexibility.⁹¹ Energy Consumers Australia identified that greater flexibility may enable energy service providers to go 'above and beyond' the letter of the law to deliver better outcomes for consumers.⁹² For example, it was mentioned that small business customers are likely to use

83 Hon. Angus Taylor MP, Minister for Energy and Emissions Reduction, Rule change request, *Bill contents and billing requirements*, 17 April 2020, p. 5.

84 Hon. Angus Taylor MP, Minister for Energy and Emissions Reduction, Rule change request, *Bill contents and billing requirements*, 17 April 2020, p. 8.

85 97% of Click customers use online billing. <https://www.agl.com.au/about-agl/media-centre/asx-and-media-releases/2020/august/agl-enters-binding-agreement-to-acquire-click-energy-group>.

86 Submissions to consultation paper: AEC, p. 3; AGL, p. 2; EnergyAustralia, p. 3; ERM, p. 2.

87 Joint submission EWON, EWOV, EWOSA, EWOQ, p. 9.

88 Submissions to consultation paper: ACTCOSS, p. 1; Origin, p. 2; Meridian, p. 2; Joint submission EWON, EWOV, EWOSA, EWOQ, p. 8; Ergon, p. 5; Combined Pensioners and Superannuants Association of NSW Inc., p. 20; Tasmanian Department of State Growth, p. 1; QCOSS, p. 12; Next Business Energy, p. 3; EnergyAustralia, p. 6; AGL, p. 4; ERM Power, p. 2; Momentum, p. 2; PIAC, p. 11; Aurora, p. 2.

89 Submissions to consultation paper: AGL, p. 2; Alinta, p. 2; Aurora, p. 3; EnergyAustralia, p. 3; Ergon, p. 6; Origin, p. 2.

90 AGL, p. 4; Australian Energy Council, p. 4; Next Business Energy, pp. 2-3; Origin, p. 2.

91 Submissions to consultation paper: AGL, p. 4; Ergon, p. 4; ERM power, p. 2; Meridian, p. 2; Tasmanian Department of Growth, p. 1.

92 Energy Consumers Australia, p. 1.

their bill in a very different way to residential customers and may benefit more if retailers have flexibility to deliver energy bills for a diverse segment of customers and have a tailored approach to meet their needs.⁹³ It was also suggested, for example, removing explicit informed consent requirement for electronic documents as it makes it difficult and expensive for retailers with existing customers.⁹⁴ Ombudsman schemes mentioned that the delivery of bills via the customer's preferred method should be required and that greater flexibility on delivery mode could help consumers better understand their bill and engage effectively with retailers.⁹⁵ However, some stakeholders highlighted risks associated with giving retailers complete flexibility on the delivery mode for billing information.⁹⁶

Billing frequency

Comments in regard to bill frequency centred on consumer choice, education and consumer protections. Several retailers noted that the frequency of bill delivery should be driven by consumer choice and be agreed between the customer and the retailer.⁹⁷ ACTCOSS supports the current requirement and believes bills should be issued no more than every 100 days.⁹⁸ PIAC noted that when customers enter into a retail contract, they are not aware they can ask that a bill be issued less than every 100 days.⁹⁹ Accurassi suggested that bills should be required to be issued in a monthly basis. This may reduce customer bill shock given that it is likely to give them more time to change their consumption behaviours for the next period.¹⁰⁰

2.4.3

Conclusion

In terms of bill delivery, many stakeholders highlighted that consumer choice should be the key principle driving how bills should be delivered, and that consumers should always have the option to access paper bills. Many retailers consider the current rules are suitable as they provide choice to consumers including paper bills. Consumer advocates noted that new digital platforms are benefiting customers by helping them better understand their bill and engage effectively with retailer.

Stakeholder comments on bill frequency focused on the benefits of consumer choice, the need for more education about monthly billing options, and the option of mandating monthly bills.

93 ERM, p. 2-5.

94 Submissions to consultation paper: AGL, p. 4.

95 Joint submission EWON, EWOV, EWOSA, EWOQ, p. 8.

96 Submissions to consultation paper: AER, p. 3; PIAC, p. 10.

97 Submissions to consultation paper: Origin, p. 2; EnergyAustralia p. 6; Next Energy Business, p. 3.

98 ACTCOSS, submission to consultation paper, p. 3.

99 PIAC, submission to consultation paper, p. 4.

100 Accurassi, submission to consultation paper, p. 2.

3 POTENTIAL SOLUTIONS

This chapter:

- summarises stakeholders' views on the proponent's and other potential options for delivering 'better bills'.
- presents the Commission's analysis and conclusions on the option that is most likely to promote the NERO.

3.1 Stakeholders' views

Stakeholders provided feedback on three potential options:

1. A mandatory guideline, developed by the AER, underpinned by principles in the rules (proposed in the rule change request).
2. Amending the existing requirements in the rules.
3. Changing the existing rules to become principles-based, supplemented by an industry code with specific billing requirements¹⁰¹.

3.1.1 AER mandatory guideline underpinned by principles in the rules

Consumer groups, regulators and government agencies supported an AER mandatory guideline.¹⁰² The key benefits cited were that, if developed through consumer research and testing, the guideline could provide the flexibility required to respond to emerging issues and market developments (such as the Consumer Data Right or the two-sided market design).¹⁰³ The ACCC also noted that the proposed rule change is appropriate as an enforceable mechanism is needed in areas where there may not be strong commercial incentives for retailers to comply, such as in areas where there are not strong market prompts to switch to a better offer.¹⁰⁴

Many retailers and some consumer representatives do not support a mandatory AER guideline.¹⁰⁵ The main concern was that a guideline may introduce highly prescriptive billing requirements, which may stifle innovation and limit retailers' ability to deliver energy bills that meet consumer preferences.¹⁰⁶ Stakeholders also considered that a prescriptive approach would be adopted even for consumer billing issues where prescription is not warranted.¹⁰⁷

¹⁰¹ Or another non-rules based approach

¹⁰² Submissions to consultation paper: SACOSS, p. 1; QCOSS, p. 14; AER, p. 1; ACCC, p. 1; Tasmanian Department of State Growth, p. 1.

¹⁰³ Submissions to consultation paper: AER, p. 1; ACCC, pp. 1-3; Tasmanian Department of State Growth, p. 1.

¹⁰⁴ ACCC, submission to consultation paper, p. 2.

¹⁰⁵ Submissions to consultation paper: Combined Pensioners and Superannuants Association of NSW Inc., p. 3; ACTCOSS, p. 5; Australian Energy Council, p. 5; Origin, p. 1; Meridian, p. 4; ERM Power, p. 5.

¹⁰⁶ Submissions to consultation paper: Joint submission EWON, EWOV, EWOSA, EWOQ, pp. 1-3; Energy Consumers Australia, p. 1; QCOSS, p. 14; ACTCOSS, p. 6; Australian Energy Council, p. 1; Meridian, p. 2; Next Business Energy, p. 4; ERM Power, p. 2.

¹⁰⁷ Submissions to consultation paper: Joint submission EWON, EWOV, EWOSA, EWOQ, pp. 6-7; Energy Consumer Australia, p. 2; Australian Energy Council, p. 5; AGL, p.4; Ergon, p. 1; Momentum, p. 2; AGL, p. 6; ERM Power, p. 2; QCOSS, p. 14; Next Business Energy, p. 4.

Retailers also opposed changes to billing requirements due to high costs (IT development, marketing and legal) and concerns that they would force innovative retailers to change how they operate and engage with customers.¹⁰⁸ Meridian estimated the costs incurred in implementing both the Victorian Default Market Offer and the Default Market Offer were approximately 25% of their annual development budget.¹⁰⁹ Stakeholders also highlighted that there are opportunity costs associated with regulatory changes, including retailers delaying or not bringing a new service or product to market, as the capital is instead spent on meeting regulatory obligations.¹¹⁰ Others mentioned that it is not the right time to introduce more system and process costs given the current environment in the energy market.¹¹¹ AGL noted that, if an AER guideline is introduced, it should acknowledge the costs already spent by retailers improving billing outcomes for customers.¹¹²

Retailers and consumer bodies also opposed the guideline proposal on the basis that a principles-based approach is preferable to a prescriptive one.¹¹³ Retailers cited the RPIG as an example of a guideline that has created confusion and challenges for both consumers and retailers.¹¹⁴ The Australian Energy Council commented that AER guidelines tend to be prescriptive rather than serve their purpose as a guiding instrument that provides flexibility.¹¹⁵ Finally, retailers considered that they should have some level of discretion in a competitive market to present their bills in a manner that best promotes their brand, services and products, based on their understanding of consumer needs and preferences.¹¹⁶

Underpinning principles and bill purpose

The Commission sought feedback on the use of rules-based principles to guide the development of an AER guideline, and the nature of those principles. At a general level, there is support for a principles-based regulatory approach for billing.¹¹⁷ The advantages highlighted by stakeholders include:

- Increased customer empowerment through retailer flexibility to innovate.¹¹⁸
- Allow retailers to deliver more insightful information to consumers, taking into account consumer preferences and needs, without substantially increasing costs;¹¹⁹ for example, by providing customers access to detailed information via online or mobile applications if they find it easier to understand.¹²⁰

¹⁰⁸ Meridian, p. 2.

¹⁰⁹ Correspondence between Meridian and AEMC staff, 24 November 2020.

¹¹⁰ For instance, discussions between Meridian Energy and the Commission staff.

¹¹¹ Ergon, p. 6

¹¹² AGL, p. 6.

¹¹³ Submissions to consultation paper: Meridian, p. 4; Australian Energy Council, p. 5; Origin, p. 1, Energy Consumers Australia, p.2.

¹¹⁴ Submissions to consultation paper: Meridian, p. 4; Australian Energy Council, p. 5.

¹¹⁵ Australian Energy Council, p. 5.

¹¹⁶ Submissions to consultation paper: Origin, p. 1; Aurora, p. 2.

¹¹⁷ Submissions to consultation paper: Meridian, pp. 2-5; AGL, p. 1; ReAmped, p. 3; Aurora, 3.

¹¹⁸ Submissions to consultation paper: Meridian, pp. 2-5; Momentum, 2; EnergyAustralia, p. 5.

¹¹⁹ Submissions to consultation paper: Momentum, p. 2.

¹²⁰ Submissions to consultation paper: Aurora, p. 2; Origin, p. 3; Meridian, p. 3; Australian Energy Council, p. 2, ReAmped, p. 3.

Several stakeholders noted that other jurisdictions have transitioned from a prescriptive to a principles-based approach for billing requirements.¹²¹ Several cited the United Kingdom Office of Gas and Electricity Markets (OFGEM's) recently introduced principles on information and billing requirements.¹²²

On the other hand, some stakeholders saw risks in giving retailers complete flexibility under a principles-based approach.¹²³ The Department for Energy and Mining South Australia noted that a principles-based approach may result in greater inconsistency by creating more scope for interpretation by retailers.¹²⁴ PIAC and ACTCOSS considered principles should only address new technology products/services and their integration with traditional retail services, and should exist alongside minimum requirements in the rules.¹²⁵

Principles

The proponent proposed that the AER must have regard to a Better Bills objective and a set of supporting principles (set out in the rules) when developing its guideline. The proposed objective would be "to improve the experience of small customers in relation to billing for the retail supply of energy".¹²⁶

Bill purpose

The proposed supporting principles, which outline the purpose of a bill, are: *"to ensure small customers can:*

- *easily identify key information*
- *easily verify how much energy they consume and how their bill is calculated*
- *confidently query or dispute bills; and*
- *confidently navigate the market and seek the best offer".*¹²⁷

Several stakeholders considered these supporting principles to be appropriate.¹²⁸ Others suggested additional billing purpose(s). For example, bills should help consumers:

- understand how much they need to pay (owe)¹²⁹
- understand their energy costs.¹³⁰
- know their payment options¹³¹

121 Submissions to consultation paper: Energy Consumers Australia, p. 2; ERM Power, p. 4.

122 OFGEM, [Decision to modify the electricity and gas supply licenses to introduce five narrow principles and remove certain prescriptive customer communications rules](#), 2018.

123 Submissions to consultation paper: PIAC, p. 9; Department for Energy and Mining South Australia, pp. 1-2; Energy Consumers Australia, p. 1; EnergyAustralia, p. 5, Ergon, p. 7.

124 Department for Energy and Mining South Australia, pp. 1-2.

125 Submissions to consultation paper: PIAC, p. 11; ACTCOSS, p. 6.

126 Hon Angus Taylor MP, Minister for Energy and Emissions Reduction, Rule change request, Bill contents and billing requirements, 17 April 2020, p. 3.

127 Hon Angus Taylor MP, Minister for Energy and Emissions Reduction, Rule change request, Bill contents and billing requirements, 17 April 2020, p. 3.

128 Submissions to consultation paper: Meridian, pp. 2-5; AGL, p. 1; ReAmped, p. 3; Aurora, 3.

129 Submissions to consultation paper: ERM Power, p. 2; Australian Energy Council, p. 3; QCOSS, p. 3; Ergon, p. 5.

130 Next Business Energy, p. 1.

131 Submissions to consultation paper: QCOSS, p. 3; Australian Energy Council, p. 3.

- retrieve information such as contact details¹³².

According to stakeholders, certain bill purposes are more important to customers than others. AGL cited OFGEM research and customer testing that found customers chiefly only read the bill amount, usage information and due date.¹³³ Energy Consumers Australia proposed the Commission identify those functions essential to paying the bill, and those functions that could be better addressed through other means.¹³⁴

Finally, stakeholders' views were mixed on whether bills should, and in fact can, help consumers switch to a better retail plan. Several stakeholders considered bills should be a starting point to compare offers and take action to switch and/or invest in new appliances/energy products (e.g. solar PV, battery storage).¹³⁵ QCOSS however noted that while a bill may be used to prompt a consumer to take steps towards switching it is not the primary function of the bill, and so "should only be considered where tested and genuinely proven to both support the intended outcome and preserve the effectiveness of the main purpose of the bill".¹³⁶ Ombudsman schemes questioned whether the introduction of the best offer notice in Victoria has helped consumers switch and noted it was "not uncommon for consumers to be confused by or distrust" this notice in the bill.¹³⁷

3.1.2

Amending the current billing requirements in the NERR

The Commission sought stakeholder feedback on whether a rules-based approach could address material concerns with energy bills.

There was significant support from both consumer groups and retailers for retaining bill content requirements in the rules, and considered that any material billing issues should be solved by amending the existing rules.¹³⁸ A common view was that specific requirements in the rules provide certainty and clarity both to retailers and consumers.¹³⁹

Some stakeholders noted that the Commission could retain bill content requirements in the rules, complemented by an AER guideline that:

- includes (voluntary) guidance¹⁴⁰
- includes principles to accommodate new technology, other innovations and consumer preferences¹⁴¹
- sets out (mandatory) standardised terminology and format.¹⁴²

132 ERM Power, p. 2.

133 AGL, submission to consultation paper, p. 1.

134 Energy Consumers Australia, submission to consultation paper, p. 2.

135 Submissions to consultation paper: QCOSS, p. 3; Combined Pensioners and Superannuants Association of NSW Inc., 2; Origin, p. 2.

136 QCOSS, p. 3.

137 Joint Submission EWON, EWOV, EWOSA, EWOQ, p. 7.

138 Submissions to consultation paper: PIAC, p. 11; Combined Pensioners and Superannuants Association Inc., p. 3; ACTCOSS, p. 5; Department for Energy and Mining South Australia, p. 1; Origin, p. 1; Meridian, p. 4; Australian Energy Council, p. 1; Ergon, p. 7; Momentum, p. 2; AGL, p. 6; EnergyAustralia, p. 5; ERM Power, p. 3; Next Business Energy, p. 4.

139 Submissions to consultation paper: ACTCOSS, p. 6; Australian Energy Council, p. 6; AGL, p. 5; Meridian, p. 4.

140 Meridian, submission to consultation paper, p. 4.

141 PIAC, submission to consultation paper, p. 11.

142 ACTCOSS, submission to consultation paper, p. 5.

3.1.3 **Introducing an industry code underpinned by principles in the rules**

The Commission sought feedback on non-rules based approaches including industry collaboration, initiatives, non-binding guidelines, education programs and industry codes.

Stakeholder feedback centred on an industry code, and generally did not consider it appropriate for the purposes of billing. Consumer representatives opposed the introduction of an industry code as it would reduce the compliance and control mechanisms available under the law and the rules.¹⁴³ The ACCC and AER noted similar concerns regarding the use of industry self-regulation for billing as they usually do not have direct enforcement processes which create insufficient incentives for industry compliance.¹⁴⁴

Several consumer representatives recognised that non-rules based approaches can deliver specific benefits.¹⁴⁵ For example, they could complement or avoid the need for changes in the NERR; an industry code could cover bill contents, format and delivery or an AER non-binding guideline could be developed jointly with retailers.¹⁴⁶ They also provide opportunity for input from across the industry, and associations committed to achieving effective consumer protections.¹⁴⁷

Some retailers noted an industry-based approach may provide flexibility however, they recognised the risks of this approach.¹⁴⁸

3.1.4 **Views on implementation, civil penalties and review**

Implementation

The AER anticipated that the development of a guideline will take up to 12 months and further time will be required for implementation.¹⁴⁹ Due to the complexity of system changes required arising from changes to retailer billing systems, Ergon Energy Retail suggests a minimum implementation period of two years would be appropriate.¹⁵⁰

If new rules were to commence from a particular date, the AEC considered that there could be a rolling implementation period that might enable retailers to minimise redevelopment cost by allowing them to optimise their implementation timing based on their needs.¹⁵¹

Civil penalties

The rule change request proposed that the amended rule be subject to a civil penalty if retailers failed to comply.¹⁵² The Australian Energy Council did not support this on the basis

143 Submissions to consultation paper: PIAC, p. 10; ACTCOSS, pp. 1-2.

144 AER, pp. 1-2, 4.

145 Submissions to consultation paper: QCOSS, p. 15-16; Joint submission EWON, EWOV, EWOSA, EWOQ, p. 13; Energy Consumers Australia, 2.

146 QCOSS, submission to consultation paper, p. 15.

147 Joint submission EWON, EWOV, EWOSA, EWOQ, p. 13.

148 Submissions to consultation paper: Ergon, p. 7;

149 AER, p. 5.

150 Ergon, p. 6.

151 Australian Energy Council, submission to consultation paper, p. 7.

152 Hon Angus Taylor MP, Minister for Energy and Emissions Reduction, Rule change request, Bill contents and billing requirements, 17 April 2020, p. 7.

that it may create uncertainty for retailers with respect to whether they are compliant with the guideline. It also noted a need for clarity regarding how the AER would monitor enforcement.¹⁵³ PIAC, on the other hand, supported including a civil penalty for any breaches to the guideline.¹⁵⁴

Review

Stakeholders noted that if an AER guideline were to be implemented, it should be reviewed regularly.¹⁵⁵ ACTCOSS suggested a statutory periodic review every 2 years and a requirement for community engagement.¹⁵⁶

3.2 Commission's analysis

The Commission has considered the three regulatory approaches to addressing the issues raised by the proponent in terms of their promotion of the NERO. It has concluded that the approach most likely to promote the NERO is an AER mandatory guideline. In response to issues raised by stakeholders and key contextual factors, the Commission is proposing a more preferable draft rule that includes principles that the AER must take into account when developing the guideline. The following sections present the Commission's analysis and conclusion.

3.2.1 Flexibility

The need for flexibility

The Commission considers that billing frameworks need to be able to adapt to changes in the retail market. Consumer preferences and needs, technological uptake and innovation in the market will continue to evolve. Billing frameworks also need to be able to utilise different regulatory responses. For instance, it may be appropriate to use a prescriptive approach for some billing issues, a principles-based approaches for others issues, and a 'wait and reassess' approach for others. In the *2020 Retail energy competition review* the Commission found that the growing diversity in the market is likely to require a range of regulatory approaches to strike the right balance between enabling innovation and consumer protection.¹⁵⁷

Stakeholder feedback confirms that a uniform regulatory approach may not suitable, at least not for all bill functions. The Commission considers that while a prescriptive approach may be suitable for some billing issues (such as language and terminology) it presents higher risks for others (such as standardised format). A regulatory framework that caters to both aspects of flexibility -- for changes over time and for a diversity of approaches -- is likely to promote the provision of adequate, clear and timely bill information.

153 Australian Energy Council, submission to consultation paper, p. 5.

154 PIAC, submission to consultation paper, p. 11.

155 Submissions to consultation paper: PIAC, p. 2; QCOSS, p. 17; ACTCOSS, p. 6.

156 ACTCOSS, submission to consultation paper, p. 6.

157 AEMC, [2020 Retail energy competition review](#), p. 205.

Options

Typically, an industry code is the approach most aligned with the provision of flexibility for industry. However, this regulatory mechanism may not be binding on industry. In the absence of legal compulsion there could be discretion in whether a business chooses to be a signatory or whether it would comply with the code.¹⁵⁸ This was the main reason stakeholders did not support a non-rules approach as the central pillar of a billing framework.

Given the above, the Commission does not consider a self-regulation option to be a viable solution from the perspective of consumer protections.

A rules-based approach would provide a binding framework with clarity on minimum billing requirements and related compliance processes, where enforcement bodies (such as the AER) can easily apply the provisions.

However, the Commission considers a guideline process may be more responsive and adaptable to changes in the market and consumer preferences than a solely rules-based process, if it is informed by ongoing expertise developed through the guideline design, stakeholder engagement and a monitoring process. As mentioned by stakeholders, consumer research and behavioural insights are key to identifying what consumers value the most and expect to see in an energy bill.¹⁵⁹ As a priority to protect consumers, the AER is committing in its upcoming strategic plan to improving consumer outcomes by boosting consumer testing and behavioural insights (while also reducing costs to serve). Importantly, the AER intends to apply its research findings across AER initiatives (e.g. Retail Pricing Information Guidelines (RPIG), Energy Made Easy enhancements, Hardship/Sustainable Payment Plans Framework (SPPF) as well as billing). This confirms that sustained consumer research and testing capability is to be built within the AER through the guideline development and monitoring process, and its findings are to be applied across the consumer retail experience.

Response to key stakeholder concerns

The Commission notes stakeholders' concerns that introduction of a mandatory AER guideline could result in a uniformly prescriptive approach to all billing issues. In response, the Commission has proposed a guideline development principle intended to require the AER to adopt a flexible, fit-for-purpose regulatory approach to billing issues; whereby the requirements in the guideline are effective and proportionate to the materiality of the billing issue and the expected benefits that result from achieving the relevant billing objectives (see section 3.2.5).

Stakeholders wanting to retain detailed provisions in the NERR expressed concern about the timing, frequency and consultation process for the development and review of an AER guideline, compared with the certainty on these matters set out in the NERR. The Commission understands these concerns and supports timely regulatory reviews. It also considers that wide industry consultation must be part of the development and review processes of an AER guideline, in addition to consumer research.

¹⁵⁸ AEMC, [2020 Retail energy competition review](#), pp. 214-215.

¹⁵⁹ Submissions to consultation paper: AER, p. 1; ACCC, p. 1; SACOSS, p. 3; ACTCOSS, p. 4; AGL, pp. 1-2; ACTCOSS, p. 4; Meridian, p. 4; Aurora, p. 3; Origin, p. 2; Energy Australia, p. 2; Ergon, p. 1.

3.2.2 Consumer engagement, choice, innovation and participation

Principles-based and prescriptive approaches

The Commission has considered the extent to which each of the options would promote consumer engagement, retail innovation, choice and participation in the market. Generally, prescriptive regulatory approaches are seen to limit innovation and customer choice as businesses may simply follow specified requirements rather than adjusting for context and focusing on the desired outcome. On the other hand, a principles-based approach is typically seen to be more aligned with consumer choice and innovation.

Options

To enable consumer engagement, innovation, choice and market participation, at a point in time the regulatory mechanism needs to deliver the right combination of principles-based and prescriptive provisions. Over time, the mechanism needs to respond to and, ideally, anticipate market developments. The Commission considers the AER guideline approach a more adaptable and proactive mechanism than a rules-based approach. The AER has an ongoing role in market monitoring, and consumer research and testing, and are therefore well-placed to respond proactively.

The Commission considers that the billing framework must provide an adequate safety-net for consumers. It must provide a 'minimum floor' of protection, which typically would be achieved by more prescriptive requirements for certain billing matters. However, without impacting on this minimum floor, the billing framework should enable innovation and consumer choice. For instance, prescriptive requirements may be seen as required to set minimum content requirements for bills, but flexibility could be provided to ensure consumers have the choice over how to receive other information such as detailed consumption data.

For the reasons set out in section 3.2.1, the Commission favours implementing an AER guideline underpinned by principles-based provisions in the rules. The approach is consistent with the more adaptable regulatory models described in the 2020 Retail competition review. In developing the guideline, the AER will be required to take into account the need for consumer protections, while also enabling innovation, competition and consumer choice (see section 3.2.5).

3.2.3 Regulatory and administrative burden

The Commission has considered the regulatory and administrative benefits and costs associated with the rule change proposal, and the other options to address billing issues. The Commission is cognisant that regulation can involve costly changes to billing systems, as well as the opportunity cost to businesses of those costs. Significant costs can also be incurred in managing billing inquiries, complaints, and disputes, which are borne by retailers, government, the not-for-profit sector and, ultimately, energy consumers.

The Commission considers that a hybrid approach where provisions in the NERR establish billing objectives and a mandatory guideline includes specific minimum billing requirements, will help guide compliance with the objectives and support retailers and the AER in effective monitoring and compliance.

Sequencing and timing of changes to bill requirements also impact on costs. The AER is encouraged to consider the costs and benefits of incremental versus more wide-spread changes, and implementation timeframes for any changes to enable industry compliance costs to be minimised.

This is aligned with a priority in the AER's upcoming strategic plan of reducing industry cost to serve.

Consistent with this, the Commission has included in the draft rule a principle that in developing the guideline, the AER must take into account the costs of compliance by retailers with the billing guidelines and the potential resulting costs for small customers (see section 3.2.5).

3.2.4 **Bill deliver and bill frequency**

Bill delivery

The legal framework

Currently, clause 319 of the National Energy Retail Law (NERL) provides that if the NERR require a document to be sent to a person, it may be sent by:

- delivering it to the person
- leaving it at, or sending it to, the address of the person, or
- by sending it electronically, provided that if the person is a small customer, only if they have given their explicit informed consent to receiving the document electronically.

This would mean that under the NERL, small customers, regardless of the type of contract they are on (standard retail contracts or market retail contracts), would have the option of receiving a paper bill or giving their explicit informed consent to receive an electronic bill.

Additionally, clause 17 of the model terms and conditions for standard retail contracts in the NERR specifies that bills must be sent in writing and will be taken to have been received by a small customer:

- on the date it is handed to them or left at their premises
- on the date 2 business days after it is posted, or
- on the date of transmission if sent electronically and the use of electronic communications has been agreed by the small customer.¹⁶⁰

This requirement for bills to be in writing could be satisfied by paper bills or e-bills. In relation to e-bills, jurisdictional laws prescribe the circumstances under which electronic communications will satisfy the requirement to give information in writing.

The current situation

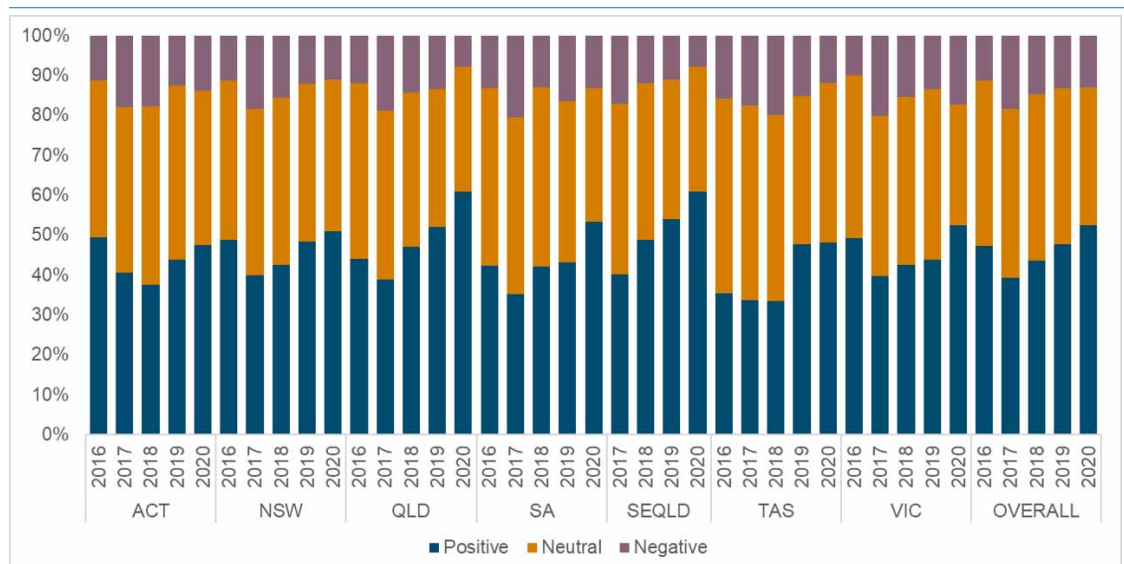
In summary, small customers on standard retail contracts always have the option of receiving a paper bill (or giving their explicit informed consent to receive an electronic bill). Market

¹⁶⁰ NERR, Model terms and conditions for standard retail contracts, Schedule 1, Clause 17.

offers can be provided with or without a paper bill option. Consumers consider and may accept a market retail offer dependent on their circumstances.

Stakeholders noted that consumer uptake of technology will continue to grow, especially with the introduction of the Consumer Data Right and as more services are offered in a two-sided market.¹⁶¹ Energy Consumers Australia's Consumer Sentiment Survey has been tracking consumer confidence that the energy market will provide better outcomes in 5 years in terms of technological advances to manage their energy supply and costs. As evidenced in Figure 3.1, consumer confidence in technological advances is steadily increasing over time. The Commission's view that bill delivery is an area where improved information availability via electronic delivery means could help consumers better understand their usage and costs.

Figure 3.1: Confidence technological advances to manage energy supply and costs



Source: Energy Consumers Australia, Consumer Sentiment Survey, 2020.

The Commission's view is that the rules currently provide sufficient protection to consumers, by giving them the choice of receiving a paper bill or an electronic bill for standard retail contracts. The Commission did not receive feedback that suggested consumer choice is limited or that consumers are not able to receive paper bills when they choose to. The Commission also notes that a large and growing proportion of retail offers and consumer choices are based on electronic delivery and consumers are increasingly confident that technological advances will help them manage energy costs and usage in the future. The Commission is interested in stakeholder views on consumers being able to choose to receive some components of required billing information via an app or web portal, for instance, rather than on a periodic bill, and which aspects of billing information/billing objectives may be most appropriate for consumer choice.

¹⁶¹ Submissions to consultation paper: Australian Energy Council, 2, Aurora, p. 2.

If there is a desire to make paper bills more accessible to consumers, the Commission's view is that this is not to be achieved through a billing guideline. It would be established in the nature of offers made to customers, and so pursued via the RPIG, if it were considered that the accessibility outcomes from current framework are problematic.

Bill frequency

Current requirements in bill frequency vary with the type of contract. If a small customer is on a standard retail contract, a retailer must issue the bill at least once every 100 days.¹⁶² If a bill is issued after this period, a civil penalty may apply.¹⁶³ However, a small customer and retailer may agree to a shorter billing cycle, and many customers currently receive bills monthly. For customers on a market retail contract, the frequency of bills is negotiated and agreed between the relevant retailer and customer, rather than specified in the rules.

As outlined previously, the Commission's view is that the current rules requirements on bill frequency are providing choice to consumers, as well as providing an appropriate safety net of a bill at least every 100 days through the standard retail contract provisions.

With technological change, new service offerings (direct debit and fixed-payment offers for instance), consumer uptake of monthly billing, and the economic downturn, this issue should be monitored over time. Also, as bill frequency could impact on the approach taken to matters within the scope of the AER guidelines, the Commission's view is that the AER should be able to specify a billing frequency period for standard retail contracts that is different from the 100-day maximum period specified in rule 24 of the rules.

3.2.5

Conclusion and summary of guideline development principles

The Commission has considered three regulatory options for addressing issues related to energy bills and concluded that the development of an AER guideline, underpinned by an objective and guideline development principles in the rules, is most likely to promote the NERO.

To address stakeholder concerns, the Commission has determined that, in developing (and updating) the guideline, the AER must have regard to the following principles:

1. **The need for consumer protections for small customers, while also enabling retail market innovation, competition and consumer choice.**

The aim of this principle is to deliver provisions in the AER guideline that are designed to protect consumers while also enabling market innovation, retail competition and consumer choice.

2. **The costs of compliance by retailers with the billing guidelines and the potential costs for small customers.**

The principle requires consideration of costs in the development of guideline billing requirements. It seeks to address retailers and consumer groups' concerns regarding cost

¹⁶² NERR, rule 24(1).

¹⁶³ NERR, rule 24(2).

to serve, including system, implementation, complaints and consumer advocacy costs. It could also include opportunity costs.

- 3. Whether the requirements in the billing guidelines are effective and proportionate to the expected benefits that result from achieving the relevant billing objectives.**

This intent of this principle is to deliver billing requirements in the AER guideline that are effective, and proportional to the materiality of the billing issue they are seeking to address and achieving the billing objectives.

- 4. The potential benefits of standardising language and terminology across bills, customer retail contracts and energy offers.**

This principle seeks to address stakeholders' view that there may be benefit in making language and terminology consistent across all energy bills and across key points of consumer engagement in the retail market, such as bills, contracts and energy offers.

4 DRAFT RULE DETERMINATION

The Commission's draft rule determination is to make a more preferable draft rule (the draft rule). The draft rule requires retailers to comply with an AER mandatory guideline (the guideline) containing billing requirements. The draft rule adopts many elements of the proponent's rule change request, outlining billing objectives that are aligned with those provided by the proponent, and principles that the AER must consider in developing the guideline. The draft rule includes the following principles that the AER must consider when developing and amending the guideline:

- the need for consumer protections for small customers, while also enabling retail market innovation, competition and consumer choice
- the costs of compliance by retailers with the guidelines and the potential resulting costs for small customers
- whether the requirements in the guidelines are effective and proportionate to the expected benefits that result from achieving the relevant billing objectives
- the potential benefits of standardising language and terminology across bills, customer retail contracts and energy offers.

By including these principles, the draft rule protects small customers in regard to billing but also provides the opportunity to utilise and support innovation in the retail market, benefit consumers through a competitive retail market, and recognise consumer preferences in relation to the receipt of billing information.

The draft rule differs from the rule change proposal in relation to what the AER guideline can cover. The guideline can specify a billing frequency period for standard retail contracts that is different from the 100-day maximum period specified in rule 24 of the rules. However, the guideline does not extend to the delivery of bills.

This chapter describes:

- the Commission's reasons for making this draft rule
- implementation and commencement dates
- the rule making test for changes to the NERR, the more preferable rule test and the consumer protections test
- the Commission's consideration of the draft rule against the national energy retail objective
- the draft determination and the Commission's assessment framework.

Further information on the legal requirements for making this draft rule determination and the more preferable draft rule are set out in appendix C.

4.1 Summary of reasons

The Commission has assessed whether the more preferable draft rule will, or is likely to, contribute to the achievement of the NERO and has evaluated the more preferable draft rule against the assessment framework set out below.

The Commission considers that the changes to the NERR made by the more preferable draft rule address the issues set out in the rule change request.

4.1.1 **Overview of the more preferable draft rule**

The more preferable draft rule made by the Commission is attached to and published with this draft rule determination. In summary, the more preferable draft rule:

- requires the AER to make billing guidelines in relation to how retailers prepare and issue bills to small customers. The provisions in the billing guidelines will replace the current bill information requirements in rule 25(1) of the NERR
- requires retailers to comply with the billing guidelines when preparing and issuing bills to small customers
- allows the billing guidelines to specify the frequency that small customers on standard retail contracts must receive bills
- contains objectives for the billing guidelines, for example, to enable small customers to easily understand payment amounts, dates and payment methods for their bill
- includes principles that the AER must take into account when developing and amending the guideline.
- requires industry consultation in the development and review of the guidelines.

No change is proposed to the requirement in the NERR rule 25(2) that allows non-energy services to be part of an energy bill if they are separately itemised on the bill, so consumers can understand the cost of these additional services.

Further detail on the more preferable draft rule can be found in the appendices.

4.1.2 **Commission's rationale for the final rule**

Having regard to the issues raised in the rule change request and during consultation, the Commission is satisfied that the more preferable draft rule is likely to better contribute to the achievement of the NERO than the rule proposed by the proponent. The more preferable rule promotes the NERO as it includes principles that will:

- better promote competition and innovation
- provide greater transparency on the guideline development process
- lead to a proportionate and least cost outcome for consumers.

The Commission is also satisfied that the more preferable draft rule satisfies the consumer protection test.

The Commission considers that the introduction of an AER mandatory guideline with clear billing objectives and guideline development principles is an appropriate response to the billing issues raised by the proponent and stakeholders. A guideline is likely to be more responsive and adaptable to changes in the retail market and consumer preferences, as it is likely to be informed by ongoing expertise developed through the guideline development and monitoring process (rather than via one-off rule change processes). The AER has indicated an organisational priority is to boost consumer and behavioural insights to inform a number

of its consumer related functions, including the Retail Pricing Information Guidelines (RPIG), the Hardship guideline, its focus on vulnerable customers. Adding the bill guideline requirement to the AER's functions is consistent with its existing and developing expertise in relation to consumer interests. This is also aligned with reducing industry cost to serve.

The more preferable draft rule seeks to achieve a number of policy goals, including:

- a regulatory framework that is adaptable over time
- a regulatory framework that protects consumers while enabling innovation and competition
- billing provisions that reflect the variety of offers and consumer preferences in the market (avoiding a 'one-size-fits-all', where possible)
- cost and usage information on bills that helps small customers use energy efficiently, engage in the market and consider investing in self-supply options such as solar and batteries.

The Commission considers that the more preferable draft rule is compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers, because the more preferable draft rule establishes a mandatory guideline that will specify requirements that retailers must meet in preparing and issuing bills to small customers. The guideline will establish protections for small customers regarding billing, while also enabling customers to benefit from innovation in the retail market.

4.1.3 **Implementation and commencement date**

Retailers will need sufficient time to implement the more preferable draft rule (if made). This draft determination seeks specific comments from stakeholders on the dates when the billing guidelines should be published and when retailers will be required to comply with them. It is proposed that it will take 12 months for the AER to develop the billing guidelines and a further 3 months for retailers to make changes to their systems (if required) to comply with the billing guidelines. On this basis, the Commission proposes that:

- the AER be required to develop and publish the billing guidelines by 1 April 2022
- retailers be required to comply with the billing guidelines from 4 August 2022.

4.2 **Rule making test**

4.2.1 **Achieving NERO**

The Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national energy retail objective (NERO).¹⁶⁴ This is the decision-making framework that the Commission must apply.

The NERO is:¹⁶⁵

¹⁶⁴ Section 236(1) of the NERL.

¹⁶⁵ Section 13 of the NERL.

to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.

The Commission must also, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the "consumer protections test").¹⁶⁶

Where the consumer protections test is relevant in the making of a rule, the Commission must be satisfied that both the NERO test and the consumer protections test have been met.¹⁶⁷ If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made.

There may be some overlap in the application of the two tests. For example, a rule that provides a new protection for small customers may also, but will not necessarily, promote the NERO.

4.2.2 Making a more preferable rule

Under s. 244 of NERL, the Commission may make a rule that is different (including materially different) to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the NERO.

In this instance, the Commission has made a more preferable rule. The reasons are summarised above.

4.3 Assessment framework

In assessing the rule change request against the NERO the Commission has considered the following principles:

- **Transparency of information** — a well functioning retail market requires customers to have adequate, clear and timely information about the service they are buying, their usage of that service, and the price they are paying for that service. The Commission has considered the extent to which the rule change is likely to improve, through better information provision, consumers' understanding of their energy bills, which in turn may help them better manage their energy costs.
- **Consumer engagement, choice, innovation and participation** — all consumers should have the opportunity to make informed decisions and choices about electricity, gas or retail services. The Commission has considered the benefits of the rule in promoting consumer engagement, choice, innovation¹⁶⁸ and participation in the market; immediately

¹⁶⁶ Section 236(2)(b) of the NERL.

¹⁶⁷ That is, the legal tests set out in s. 236(1) and (2)(b) of the NERL.

¹⁶⁸ The Commission has considered and supports the proposal by ERM Power, in their submission to the consultation paper, that retail market innovation should be a component of the assessment framework for this rule change request, ERM Power, p. 3.

and into the long-term. These will include the benefits of fostering efficient investment and operational decisions over time.

- **Regulatory and administrative burden** — altering what retailers must put on energy bills, and introducing new requirements (e.g. particular delivery modes), may impose immediate and ongoing costs on retailers (e.g. changes to their billing systems and/or paper bill delivery costs). Also, requiring the AER to develop, monitor and keep up to date a mandatory guideline would impose new costs on the AER. The Commission has considered the regulatory and administrative benefits and costs associated with the rule change proposal.

ABBREVIATIONS

ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
CDR	Consumer data right
Commission	See AEMC
DER	Distributed energy resources
DMO	Default Market Offer
EME	Energy Made Easy
NERL	National Energy Retail Law
NERO	National energy retail objective
NERR	National Energy Retail Rules
RPIG	Retail Pricing Information Guidelines
SPPF	Sustainable Payment Plans Framework

A CURRENT BILL CONTENT REQUIREMENTS BY BILL FUNCTION

Table A.1: Billing requirements by functions

FUNCTION	RULE	REQUIREMENT
Pay the bill and understand how it is calculated	25(a)	the customer's name and account number
	25(b)	the address of the customer's premises for the sale of energy and the customer's mailing address (if different)
	25(c)	the meter identifier
	25(d)	the billing period
	25(e)	the pay-by date for the bill and the bill issue date
	25(f)	the total amount payable by the customer, including amounts of any arrears or credits
	25(g)	tariffs and charges applicable to the customer
	25(h)	the basis on which tariffs and charges are calculated
	25(i)	whether the bill was issued as a result of a meter reading or an estimation and, if issued as a result of a meter reading, the date of the meter reading
	25(j)	the values of meter readings (or, if applicable, estimations) at the start and end of the billing period
	25(m)	the estimated date of the next scheduled meter reading (if applicable)
	25(n)	details of consumption or estimated consumption of energy
	25(p)	any amount deducted, credited or received under a government
	25(q)	if the customer has provided a security deposit, the amount of that deposit
Understand usage	25(r)	details of the available payment methods
	25(k)	particulars of the average daily consumption during the billing period
	25(l)	if a bill was issued by the same retailer for the corresponding billing period during the previous year,

FUNCTION	RULE	REQUIREMENT
		particulars of the average daily consumption during that previous billing period
	25(o)	for residential customers—energy consumption benchmarks in accordance with Part 11;
	170(1)(a))	a comparison of the customer's electricity consumption against the electricity consumption benchmarks (AER benchmarks under rule 169). This information must be presented in a graphical or tabular form, as appropriate and in a manner which is easy for the customer to understand.
	170(2) and (3)	
	170(1)(b))	a statement indicating the purpose of the information provided with respect to those benchmarks
	170(1)(c))	a reference to an energy efficiency website
Seek help	25(s)	a reference to the availability of government funded energy charge rebate, concession or relief schemes
	25(t)	a telephone number for account enquiries, the charge for which is no more than the cost of a local call
	25(u)	a telephone number for complaints (which may be the same as that for account enquiries), the charge for which is no more than the cost of a local call
	25(v)	a separate 24 hour telephone number for fault enquiries and emergencies, the charge for which is no more than the cost of a local call, being the telephone number for the distributor and giving the name of the distributor
	25(w)	contact details of interpreter services in community languages
	25(x)	any proportionate billing information in accordance with rule 22.

Source: NERR, rule 25

B SUMMARY OF ADDITIONAL ISSUES RAISED IN SUBMISSIONS

This appendix sets out the issues raised in the first round of consultation on this rule change request that have not been addressed in the body of the draft determination, and the AEMC's response to each issue.

Table B.1: Summary of other issues raised in submissions

STAKEHOLDER	COMMENT	AEMC RESPONSE
Accurassi	Energy bills should be able to be provided in both Electronic (PDF) and API format. This would prepare the retailers for CDR phase 2 with the retailers making the bill data available in standardised API's in preparation for CDR.	The Commission has reviewed bill delivery and considers that the rules currently provide sufficient protection to consumers, by giving them the choice of receiving a paper bill or an electronic bill for standard retail contracts.
ACTCOSS	As an essential service, households should be able to access reasonable, affordable energy without having to be engaged in a way that requires regularly switching between offers or retailers and the ability to assess and compare complex information.	The Commission considers that energy affordability is being addressed through a range of regulatory mechanisms apart from switching plans, such as the introduction of the Default Market Offer and concessions, rebates and relief schemes. This issue is outside the scope of this rule change.
Meridian Powershop	Any potential rule change must not contradict items already covered by the Australian Consumer Law (ACL) and all relevant tax laws given an energy bills is issues primarily to comply with relevant tax law.	The Commission agrees that consistency is a key element in developing any regulatory reforms.
Joint submission EWON, EWOV, EWOSA, EWOQ	The pay by date often causes confusion. Some payment methods take longer to process than other methods; therefore payments are received after the 'pay by' date.	The Commission considers more information on this issue and potential solutions will be gained through consumer research in developing the AER guideline.
Joint submission EWON,	Discrepancies occur between the customer's physical address	The Commission considers more information on this

STAKEHOLDER	COMMENT	AEMC RESPONSE
EWOV, EWOSA, EWOQ	and the address listed on the bill as the supply address, mainly due to discrepancies in MSATS data.	issue and potential solutions will be gained through consumer research in developing the AER guideline.
Joint submission EWON, EWOV, EWOSA, EWOQ	The recommendation for the use of a mandatory guideline has the benefit of ensuring standardisation across retailers, however this should not come at a cost of reduced innovation and bill customisation, which is an important feature of a digital platform. For example, in the United Kingdom (UK) energy retailer SSE Energy Services provides innovative options for visually impaired customers allowing them to choose different ways to received energy bills. Innovative solutions provided by SSE include audio bills and a talking bill service. Innovation such as these addresses the diverse needs of customers and needs to be actively encouraged or rather, not prevented by over regulation.	The Commission's principles support the promotion of innovation and customisation.
Combined Pensioners and Superannuants Association Inc.	Paper bills should remain a free service for every energy service.	The Commission notes this is currently managed by each jurisdiction. As such, this issue is outside the scope of this rule change.
EnergyAustralia	Meter start and end readings are not necessary for interval meters	In July 2019, the Commission published a final determination on this issue: Bill contents - customers with interval meters. This issue is outside the scope of this rule change.
EnergyAustralia	The estimated date of the next scheduled meter reading - even for accumulation meters - has limited utility as it does not reflect when the next bill will be issued	The Commission considers more information on this issue and potential solutions will be gained from consumer research in developing the AER guideline.
QCOSS	No information on when a customer's current offer expires.	The Commission considers more information on this issue and potential solutions will be gained from

STAKEHOLDER	COMMENT	AEMC RESPONSE
		consumer research in developing the AER guideline.
Next Business Energy	<p>Consistent positioning of NMI information would assist customers engaging with new retailers. For example, customers can now access their billing information for the purposes of bill comparison by providing their NMI when using Energy Made Easy and Victorian Energy Compare. The implementation of CDR could also allow customers to access their billing data directly into EME, or other third-party products.</p>	<p>The Commission considers more information on this issue and potential solutions will be gained from consumer research in developing the AER guideline.</p>
ERM Power	<p>Considers that the regulatory environment fails to recognise the diversity of small customers, which often has a cascading impact on bills, adding to bill complexity and confusion.</p> <p>Small business customers with multiple sites can enter into an agreement with a retailer such that they can be considered a large customer. However, if this business customer's market offer ends before they enter a new market contract, under the NERR, the multi-site business customer automatically reverts to being treated as a small customer and is subject to the relevant requirements. We see this as being impractical. These customers should continue to be treated as aggregated despite no longer being under the market offer, in which case Rule 25 should not apply.</p> <p>The recent customer switching rule change is another example of where new AEMO procedures will lead to customer bill confusion. Manually read estimated transfers are compounded for switches of large business customers that</p>	<p>The Commission considers more information on this issue as it relates to billing, and potential solutions, will be gained from consumer research in developing the AER guideline.</p>

STAKEHOLDER	COMMENT	AEMC RESPONSE
	<p>are made up of various small sites (multi-sites) and who usually receive consolidated bills. We will be required to adhere to the minimum requirements, and this becomes complex with a final bill based on an estimate. Any site with a manually read interval meter will have subsequent adjustments made, bringing complexity to customers under a consolidated arrangement where sites previously final billed will need to be adjusted. Operational impacts on final customer billing under the new switching rules were not adequately explored prior to these changes being made.</p>	

C LEGAL REQUIREMENTS UNDER THE NERL

This appendix sets out the relevant legal requirements under the NERL for the AEMC to make this draft rule determination.

C.1 Draft rule determination

In accordance with s. 256 of the NERL the Commission has made this draft rule determination in relation to the rule proposed by the Honourable Angus Taylor MP, Minister for Energy and Emissions Reduction, on behalf of the Australian Government.

The Commission's reasons for making this draft rule determination are set out in chapter 4.

A copy of the more preferable draft rule is attached to and published with this draft rule determination. Its key features are described in chapter 4.

C.2 More preferable rule

Under s. 244 of NERL, the Commission may make a rule that is different (including materially different) to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the NERO.

In this instance, the Commission has made a more preferable draft rule. The Commission's reasons for making this draft rule determination are summarised in chapter 3.

C.3 Power to make the rule

The Commission is satisfied that the more preferable draft rule falls within the subject matter about which the Commission may make rules. The more preferable draft rule falls within s. 237 of the NERL as it relates to regulating the provision of energy services to customers, and to the activities of persons involved in the sale and supply of energy to customers (s.237(1)(a) of the NERL).

C.4 Commission's considerations

In assessing the rule change request the Commission considered:

- its powers under the NERL to make the rule
- the rule change request
- submissions received during first round consultation
- the Commission's analysis as to the ways in which the proposed more preferable draft rule will or is likely to, contribute to the NERO.

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change request.¹⁶⁹

C.5 Civil penalties

The Commission cannot create new civil penalty provisions. However, it may recommend to the National Federation Reform Council that new or existing provisions of the NERR be classified as civil penalty provisions.

The Commission's more preferable draft rule amends the following rules of the NERR:

- Rule 24(1): This rule is amended to allow the billing guidelines to specify the frequency that retailers must issue bills to small customers for a standard retail contract, or if no time is specified in the billing guidelines at least once every 100 days.
- Rule 25(1): The information requirements for small customer bills in this rule are deleted and replaced with a requirement on retailers to comply with the billing guidelines in preparing and issuing bills to small customers.

These rules are currently classified as civil penalty provisions under the NERR and Schedule 1 of the National Energy Retail Regulations. The Commission considers that these rules (once amended) should continue to be classified as civil penalty provisions to deter non-compliance with the billing objectives, which will assist in avoiding consumer detriment. The Commission proposes to recommend to the National Federation Reform Council that these rules (once amended) remain classified as civil penalty provisions. The AER has indicated that it supports this recommendation.

C.6 Conduct provisions

The Commission cannot create new conduct provisions. However, it may recommend to the National Federation Reform Council that new or existing provisions of the NERR be classified as conduct provisions.

The more preferable draft rule does not amend any rules that are currently classified as conduct provisions under the NERL or the National Energy Retail Regulations. The Commission does not propose to recommend to the National Federation Reform Council that any of the proposed amendments made by the more preferable draft rule be classified as conduct provisions.

¹⁶⁹ Under s. 225 of the NERL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated council is now called the National Federation Reform Council.