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Australian Energy Market Commission

## CONSULTATION PAPER

# NATIONAL ENERGY RETAIL AMENDMENT (ELECTRICITY CONSUMPTION BENCHMARKS) RULE 2023

### PROPONENT

Australian Energy Regulator

22 JUNE 2023

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# RULE

## INQUIRIES

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Reference: RRC0049

## ABOUT THE AEMC

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

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## CITATION

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## SUMMARY

- 1 The Australian Energy Regulator (AER) has proposed that following their decision to not require retailers to include electricity consumption benchmarks on consumer bills, there is no longer a need to require the AER to develop those benchmarks. They submitted a rule change request on 9 May 2023 to remove this obligation from the National Energy Retail Rules (NERR).<sup>1</sup>
- 2 We have commenced our consideration of the request, and this consultation paper is the first stage.
- 3 We are seeking your feedback on the AER's proposal to remove their obligation to develop benchmarks and how we propose to assess this rule change.
- 4 We are progressing this rule change using an expedited process because we consider the request is for a non-controversial rule.

### We seek your views on removing the AER's obligation to develop electricity consumption benchmarks

- 5 The AER has put forward that benchmarks as currently developed are less relevant to consumer energy efficiency choices than when initially established due to changes in the factors that drive electricity consumption. This includes the use of solar, increased efficiency of appliances, and the energy efficiency of the building.
- 6 They have also stated that any benefit from benchmarks would be further limited as retailers will no longer be required to include them on bills as at September 2023.
- 7 The rule change request summarises findings of research that access to real-time, granular or historic usage data could better drive energy efficiency choices, noting that access to such data will become more widespread as the roll out of smart meters continues.
- 8 The AER recommends that, considering the above factors, the resources used to develop benchmarks may be better used elsewhere.
- 9 We would like stakeholder feedback on the ongoing utility of benchmarks once they are removed from bills, and, if they are useful, whether the AER should continue updating the benchmarks using the previous methodology or alternative approaches.

### We consider that there are three assessment criteria that are most relevant to this rule change request

- 10 Considering the National Energy Retail Objective (NERO)<sup>2</sup> and the issues raised in the rule change request, the Commission proposes to assess the rule change request against three assessment criteria.

1 AER, [Rule change proposal: Removing the requirement for the AER to administer electricity consumption benchmarks](#), May 2023

2 Section 13 of the NERL.

- 11 Please provide feedback on our proposal to assess the request against:
- outcomes for consumers: whether benchmarks are still driving consumer energy efficiency choices or otherwise benefit consumers,
  - implementation: the balance of continued costs with the aforementioned consumer behaviour and outcomes,
  - principles of good regulatory practice: whether other reforms currently underway would fill any gaps created by the removal of the AER's obligation to develop benchmarks.

## Objections to the expedited process are due by 6 July and submissions to this paper are due by 20 July

- 12 Stakeholders can help shape the solutions by participating in the rule change process. Engaging with stakeholders helps us understand the potential impacts of our decisions and, in so doing, contributes to well-informed, high quality rule changes.
- 13 We have included consultation questions in this paper, however, you are welcome to provide feedback on any additional matters that may assist the Commission in making its decision.

### How to object to the use of an expedited process

- 14 The Commission proposes to use an expedited process (one round of consultation and publication of a final determination within eight weeks of initiation) for this rule change for the reasons set out in section 1.2. You can object to this process. We will use the standard rule change process if we receive a valid objection.<sup>3</sup>
- 15 **Due date:** Written objections to the expedited process must be lodged by 6 July 2023.
- 16 **How to lodge an objection to the expedited process:** Go to the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au), find the "lodge a submission" function under the "Contact Us" tab, and select the project reference code RRC0049.<sup>4</sup>
- 17 **Contents:** A non-controversial rule is one that is unlikely to have a significant effect on a market for energy or the regulation of customer connection services. Objections must set out the reasons why you consider the Rule would not meet one of these criteria.

### How to make a written submission

- 18 **Due date:** Written submissions responding to this consultation paper must be lodged by 20 July 2023.
- 19 **How to make a submission:** Go to the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au), find the "lodge a submission" function under the "Contact Us" tab, and select the project reference code RRC0049.<sup>5</sup>

3 See section 252 of the NERL. The Commission will consider if the reasons set out in the objection are misconceived or lacking in substance.

4 If you are not able to lodge an objection online, please contact us and we will provide instructions for alternative methods to lodge the objection.

5 If you are not able to lodge a submission online, please contact us and we will provide instructions for alternative methods to lodge the submission.

20 Tips for making submissions are available on our website.<sup>6</sup>

#### **Publication of objections and submissions**

21 The Commission publishes objections and submissions on its website. However, we will not publish materials or parts of a submission that we agree are confidential, or that we consider inappropriate (for example offensive or defamatory content, or content that is likely to infringe intellectual property rights).<sup>7</sup>

#### **Other opportunities for engagement**

22 There are other opportunities for you to engage with us, such as one-on-one discussions with the project team prior to, and following, your formal submission. Please contact the project leader with questions or feedback at any stage.

Project leader: Jessica Curtis  
Email: Jessica.Curtis@aemc.gov.au  
Telephone: 02 8296 0648

## **Full list of consultation questions**

### **QUESTION 1: ELECTRICITY CONSUMPTION BENCHMARKS**

Once they have been removed from retail bills, will electricity consumption benchmarks still be useful? If so, for what purposes?

If benchmarks are useful, should they continue being updated using the previous methodology, or are there alternative approaches?

### **QUESTION 2: ASSESSMENT FRAMEWORK**

Do you agree with the proposed assessment framework? Are there additional principles that the Commission should take into account or principles included here that are not relevant?

<sup>6</sup> See: <https://www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/our-work-3>

<sup>7</sup> Further information is available here: <https://www.aemc.gov.au/contact-us/lodge-submission>

# 1 THE CONTEXT FOR THIS RULE CHANGE REQUEST

This consultation paper seeks stakeholder feedback on the rule change request submitted by the AER about electricity consumption benchmarks.<sup>8</sup>

## 1.1 The AER has proposed the Rules be changed to remove their obligation to develop electricity consumption benchmarks

The AER has proposed to remove their obligation to develop electricity consumption benchmarks by repealing Part 11 of the NERR. The AER considers that with benchmarks no longer being included on retail bills their utility to consumers will have significantly decreased, the benchmarks as currently developed are not useful for most consumers, and there is limited utility for third parties to use the benchmarks for other purposes.<sup>9</sup>

### 1.1.1 Context

On 18 March 2021, the AEMC made a final determination on the Bill contents and billing requirements rule change, requiring the AER to make a billing guideline on how retailers prepare and issue bills to small customers. The determination removed a number of detailed bill requirements from the NERR, for the AER to then determine the contents of bills in its billing guideline. This included removing the obligation on retailers to include electricity consumption benchmarks in their bills, noting that the AER would still be able to include this or a related obligation in the guideline.<sup>10</sup>

Following a consultative development process, the AER's Better Bills Guideline did not include a requirement for retailers to include benchmarking information on bills.<sup>11</sup> The Guideline will come into full effect 30 September 2023.

## 1.2 We propose to use an expedited process for this rule change

We propose to use the expedited rule-making process under s. 252 of the National Energy Retail Law (NERL) because we consider the rule change request is a request for a non-controversial rule – that is, the rule change is unlikely to have a significant effect on a market for energy or the regulation of customer connection services.<sup>12</sup>

Therefore, we consider using the expedited process (eight weeks in total, with one round of consultation) is appropriate in the circumstances. The process for objecting to the expedited rule-making process is set out in the summary, on page ii.

Once the AER's Better Bills Guideline is in full effect, retailers will no longer be required to include benchmarks on bills. At this time, benchmarking information will only be made

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8 The AER's rule change request can be found on [our website](#).

9 AER, [Rule change proposal: Removing the requirement for the AER to administer electricity consumption benchmarks](#), May 2023, p 3.

10 AEMC, [Rule Determination, Bill contents and billing requirements](#), 18 March 2021, p iii.

11 For further information on the Guideline, see the [AER's website](#).

12 Section 235 of the NERL.

available on the AER’s website. As benchmarks will no longer be provided directly to consumers, the AER considers that removing their obligation to develop benchmarks will be unlikely to have a significant impact on the market. On this basis, the Commission will commence this rule change as an expedited rule change.

### 1.3 We have started the rule change process

This paper is the first stage of our consultation process. The key dates for this rule change are outlined in Table 1.1 below.

**Table 1.1: Key dates**

<b>MILESTONE</b>	<b>DATE</b>
Rule change request received	09 May 2023
Commencement of this rule change process	22 June 2023
Objections to expedited process due	06 July 2023
Submissions to this consultation paper close	20 July 2023
Publication of final determination and rules	17 August 2023

To make a decision on this proposal, we seek stakeholder feedback on how we propose to assess the request, the stated problem and the proposed solutions. Information on how to provide your submission and other opportunities for engagement is set out in the summary, on page ii.

You can find more information on the rule change process in *The Rule change process – a guide for stakeholders*.<sup>13</sup>

<sup>13</sup> AEMC, [The rule change process: a guide for stakeholders](#), June 2017.



## 2 THE PROBLEM RAISED IN THE RULE CHANGE REQUEST

This chapter seeks stakeholder feedback on the AER's proposed reasons that the benchmarks no longer benefit consumers. It outlines the AER's positions that:

- benchmarks no longer drive energy efficiency choices
- consumers will have limited access to benchmarks going forward
- other sources of information could better support consumers' energy efficiency choices
- other uses of the benchmarks are limited
- developing the benchmarks requires resources.

### 2.1 The benchmarks no longer drive energy efficiency choices

In the rule change request, the AER sets out that the benchmarks were originally established "to encourage [households] to become more energy efficient" and that changes since their first development in 2011 mean their relevance to today's consumers is limited.<sup>14</sup> This section provides further detail on the origins of electricity consumption benchmarks and research on consumer responses to benchmarks.

#### 2.1.1 Origins of electricity consumption benchmarks

As the AER sets out in the rule change request, benchmarks originated from a 2009 Ministerial Council on Energy agreement on the National Framework on Energy Efficiency Australia.<sup>15</sup>

Benchmarks were proposed as a measure under Advice and Education, which had the overall following goal:<sup>16</sup>

"The efficient use of energy requires information that motivates, facilitates and reinforces rational and responsible behaviour by businesses and consumers. The Strategy is designed to ensure Australians have access to clear, consistent and credible information on energy efficient products and services. The jurisdictions will collaborate when developing communication campaigns designed to change community attitudes and behaviours in relation to energy efficiency, and consumers will be given energy use benchmarking information."

Specifically, electricity consumption benchmarks were agreed as measure 1.3.3, to be included in bills to "provide householders with information that will allow them to measure and compare their energy consumption."<sup>17</sup> As a result, benchmarks were first included on customer bills in 2012.<sup>18</sup>

14 *Rule change request*, p 7.

15 *Ibid.*

16 Council of Australia Government, *National Strategy on Energy Efficiency*, July 2009, p 11.

17 *Ibid.*, p 12.

18 *Rule change request*, p 7.

### 2.1.2 Changing utility of benchmarks

The AER has stated that benchmarks no longer provide the same utility as they did when first introduced. Specifically, they set out that drivers of energy consumption have changed significantly through the use of solar and improved energy efficiency in household appliances. Additionally, the rule currently mandates that size of household and climate zone are used to develop the benchmarks. The AER sets out that factors influencing a consumer's energy usage are more detailed, including energy efficiency of the building (which is impacted by construction type and insulation) and whether the resident is an owner or renter.<sup>19</sup>

These differences between premises mean that benchmarks are no longer directly relevant to some consumers. In their submission to the AEMC's consultation paper on billing requirements, ombudsman schemes said that benchmarks on bills "are the basis of many high billing complaints received by the Energy Ombudsman...because customers may feel that their energy usage is high compared to a typical household, yet they are not provided with additional information for a meaningful comparison."<sup>20</sup>

The rule change request provides an overview of submissions made during consultations on the Better Bills Guideline which showed mixed stakeholder views on the benefits of providing benchmarks on bills and their utility more broadly. Generally, retailers put forward that consumers found benchmarks confusing or misleading, while consumer groups had mixed feedback.<sup>21</sup> Stakeholder positions on benchmarks are further discussed throughout this consultation paper.

#### Research on consumer responses to benchmarks

The AER commissioned multiple pieces of research while developing its Better Bills Guideline, some of which directly assessed the impacts of including benchmarks on bills. It found that benchmarks had mixed effectiveness for driving energy efficiency choices.

- BETA researched how consumers understand and engage with benchmarks through two different trials. They found that benchmarks did help consumers understand usage better, but that when consumers saw bills with vs without benchmarks, there was no difference in whether they recommended using less energy as a way to save money.<sup>22</sup>
  - One group was provided only with historical usage data, while others saw historical usage data plus benchmarks. The groups that were provided with benchmarks had a better understanding that the energy usage on the bill was higher than other people, and a slight increase in the likelihood of proposing that reducing energy usage could reduce the consumer's costs.
  - Another group was provided with full bills that either did or did not include benchmarks. In this case, including benchmarks did not increase the likelihood of proposing energy efficiency as a way to save costs.

<sup>19</sup> *Rule change request*, p 7.

<sup>20</sup> EWOV, EWON, EWOSA and EWOQ *Joint submission to consultation paper*, 22 October 2020, p 5.

<sup>21</sup> *Rule change request*, pp 4-5.

<sup>22</sup> BETA, *Improving energy bills: technical appendix*, October 2021, p 51 and *Final report*, October 2021, pp 60-62.

The research also found “the 65+ cohort felt benchmarks were less useful than historical usage data,” explaining that comparison can potentially cause guilt or be disregarded. It cited another AER-commissioned report on small to medium business owners that found comparing current and historical consumption was key to understanding usage.<sup>23</sup>

- A CSIRO review of international literature on benchmarks found that they are “likely to benefit some, but not all, customers,” and recommended strategies “to minimise the potentially adverse effects of benchmarks for certain subgroups of consumers (e.g. those who are using less energy than the ‘average’ household).”<sup>24</sup>
- A literature review conducted by BETA found that “other interventions such as smart meters and in-home displays (IHDs) have much larger impacts on energy efficiency than other types of usage feedback.”<sup>25</sup> These types of interventions and related reforms are further discussed in section 2.3.

The Commission notes that this research addressed the effectiveness of benchmarks when included on bills, but did not consider the impacts of benchmarks if they had to be accessed in other ways, such as through a website.

### 2.1.3

#### The potential to develop more detailed benchmarks

The AER noted that some stakeholders recommended the development of more detailed benchmarks to address the above concerns, but that if they did so, providing the correct benchmarks to customers would require retailers to gather specific data from customers on their behaviour and appliances, noting that this would likely encounter resistance from both customers and retailers. This would also require significantly more resources from the AER, without any direct means of providing such information to consumers.<sup>26</sup>

## 2.2

### Consumers will have limited access to benchmarks

The AER also raised that any benefit from benchmarks would be limited going forward, as its Better Bills Guideline no longer requires retailers to include benchmarks in bills, and that most retailers do not intend to include benchmarks once the obligation is removed on 30 September 2023.<sup>27</sup> If the Commission does not make a rule change, benchmarks would be published on the AER’s website. Due to this, “fewer customers are likely to see the benchmarks and hence fewer customers will respond to them.”<sup>28</sup>

23 BETA, *Improving energy bills: final report*, October 2021, p 61.

24 CSIRO, Elisha Frederiks, *The efficacy and utility of electricity bill benchmarks, a review of the literature*, May 2021, pp v-vi.

25 BETA, *Energy bill contents and bill requirements: literature review*, October 2021, p 12.

26 *Rule change request*, p 8.

27 AEMC, *Delaying implementation of the AER Billing guideline, Final Determination*, 13 October 2022, p. 1.

28 *Rule change request*, pp 3, 5, 8.

### 2.2.1 Benchmarks can be used in Victoria

The AER noted that in Victoria retailers are required to include either greenhouse gas emission information or benchmarking information on bills.<sup>29</sup> Victorian legislation and guidelines do not specifically refer to the AER's benchmarks as the benchmarking information that must be included on customer bills. However, the AER noted that some retailers in the Victorian market have used the AER's benchmarks, and that they would be able to continue to use the 2020 benchmarks in the future.<sup>30</sup>

The Commission also notes that Victoria already has close to 100 percent uptake of smart meters, enabling Victorian consumers to take advantage of the options to access detailed historic and real-time usage data, as set out in the following section.<sup>31</sup>

## 2.3 Other sources of information could better drive energy efficiency

As discussed in section 2.1.1, the original intention was for benchmarks to support consumers to make better energy efficiency decisions.

The AER's request references research findings that historic or real-time data may be more useful for this purpose than benchmarks.<sup>32</sup>

- A literature review by BETA found that "while usage information can help consumers to make more energy-efficient decisions, the effect sizes are small when compared to other interventions such as smart meters and [in-home displays] IHDs."
- A study in the UK showed larger energy savings were driven by real-time displays and frequent access to information.
- A randomised controlled trial in the US found real-time access to information through in-home displays drove reductions in energy usage up to 9 per cent.
- An additional review of international research on energy savings behaviour supported the use of real-time displays, whether online or in-home.

Additionally, as noted in section 2.1.2, some of the research found that some consumers preferred historic usage data over benchmarks.

There are currently ways for consumers to access both real-time and historic data, and ongoing reforms to increase access to and the quality of data in coming years. The AER noted that these reforms are not immediate, putting forward that the 2020 benchmarks would remain available on their website.<sup>33</sup>

The Commission will consider how and when current protections and future reforms may fill any gap created by the repeal of this rule.

29 Division 5B of the Electricity Industry Act 2000 (VIC). The National Energy Consumer Framework (NECF) has limited application in Victoria, as it has not adopted the NECF (with the exception of Chapter 5A of the NER). Instead, the Victorian Energy Retail Code applies as the legal framework for retail contracts and billing provisions. This also means that the AER's Better Bills Guideline does not apply in Victoria.

30 *Rule change request*, pp 10-11.

31 AEMC, [Review of the regulatory framework for metering services draft report](#), 3 November 2022, pp ii.

32 *Rule change request*, p 9.

33 *Rule change request*, p 14.

### 2.3.1 Access to historic usage data

Currently, consumers can access their historic usage directly through their retailer or the Consumer Data Right (CDR).

- Under the Rules, consumers can currently access their metering data, which includes usage and generation, through a request to their retailer.<sup>34</sup>
- The CDR enables consumers to permit third parties to access their historic metering data, to assist with choices about tariffs or CER investment or so those third parties can tailor products for consumers.<sup>35</sup> The CDR has already commenced for the initial retailers (AGL, Origin, Energy Australia) and will commence for remaining retailers from November 2023.<sup>36</sup>

#### Smart meters can provide more timely and granular data

Having a smart meter means the data a consumer accesses through the above processes can be more detailed and updated more often.

Legacy meters are manually read, meaning a meter reader must visit a meter box and record usage. Standard business practice is to read a meter quarterly. This provides retailers with the net increase in consumption for that quarter for quarterly billing. Retailers provide this to consumers via a physical bill in the mail, an electronic bill, or via an app.

Consumers only have access to their energy usage data at the time of their bill, which can be several weeks after the data was actually collected, and the data provided will only show total consumption for the quarter. Alternatively, consumers can take the extra step to request the data from their retailer or through a CDR process - however, the data provided will still be the aggregate quarterly data. This can make it difficult for consumers to track their energy usage and identify areas where they can save energy.

Smart meters improve on this in two key aspects - more regular updating and increased granularity.

- Smart meters can be read remotely. Remote reading enables the retailer to extract data much more frequently (standard business practice is daily, to use in monthly billing cycles). Most retailers have an app that pushes that daily record of consumption data to the consumer for their viewing. Some retailers are investing in higher frequency apps, discussed in the next section on real-time data.
- Smart meter data can show the granularity of 5-minute or 30-minute intervals. This gives greater visibility into a consumer's energy usage at different times of day. Consumers still rely on retailers to provide this data through their retail app and it is still aggregated by billing cycle, but when provided the increased granularity can help consumers better understand their energy use patterns.

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34 Under the NER (rule 7.14) and NERR (rule 56A), consumers or their authorised representatives can request historical metering data (including consumption and export data) and NMI standing data.

35 Flux, [Doing consumer data right: what Consumer Data Right means for energy retailers](#), accessed 9 June 2023.

36 Australian Government, [CDR in the energy sector](#), accessed 9 June 2023. This is for non-complex requests. Complex requests are on behalf of a large customer, secondary user or a joint/partnership account, and will commence from May 2024.

Currently, for jurisdictions within the NECF (those covered by this rule change request), smart meter uptake is on average around 30 per cent. The AEMC's metering review draft report has recommended a target of 100% uptake by 2030.<sup>37</sup>

### 2.3.2 Access to real-time data

Consumers are increasingly able to access their energy data in real-time, often viewed through apps or in-home displays. Increased smart meter uptake will increase ease of access to these options.

For example, some retailers are providing apps that use real-time data for consumers who have smart meters – such as Origin's app, which provides notifications when usage spikes, and Powershop, where consumers can access current usage. These often include solar management, with specific visibility of what power is being produced.<sup>38</sup>

There is also technology that can be attached by the consumer to a smart meter to provide real-time usage data directly to a consumer's app, without the involvement of the retailer. One example costs \$129 and can provide a breakdown by different devices, such as showing how much power an air conditioner is using.<sup>39</sup>

There are a range of home energy management and smart home systems on the market for consumers.<sup>40</sup> While most of these only work with smart meters, some that use CT sensor clamps can be installed to work with traditional meters, either directly by the consumer or by an electrician.<sup>41</sup>

### 2.3.3 Other reforms to help consumers understand their data

In February, the Ministerial Council on Energy announced that Energy Consumers Australia would be exploring a national energy literacy program. This is intended to "address current knowledge gaps and ensure consumers are exposed to consistent, targeted and accessible messaging that empowers them to further reduce their energy costs."<sup>42</sup> This may assist consumers to better understand the information available to them.

## 2.4 Other uses of the benchmarks are limited

The AER's rule change request sets out other uses for the benchmarks beyond comparisons provided to consumers, but notes that these are limited.

- **The data cannot be used for research:** The AER states that due to privacy risks and consent barriers, they have not been able to provide the data sets from the 2017 or 2020 benchmarks to any other parties for research purposes. However, they do note other

37 AEMC, [Review of the regulatory framework for metering services draft report](#), 3 November 2022, pp i-iv.

38 Finder, [Which energy providers have the best apps to track daily usage?](#) and Powershop, [Tracking energy usage helps to use less and save](#), both accessed 9 June 2023.

39 Department of Energy, Environment and Climate Action Victoria, [Victorian energy upgrades - in-home displays](#) and Powerpal, [Order your Powerpal today](#), accessed 9 June 2023.

40 Canstar, [A guide to electricity usage monitors](#), 5 April 2022, accessed 9 June 2023.

41 Ibid., [Efergy E-Max Kit](#) and Reduction Revolution, [Efergy E-Max Wireless Energy monitor](#), accessed 9 June 2023.

42 Energy and Climate Change Ministerial Council, [Meeting Communiqué](#), 24 February 2023, p 3.

types of data that were not in place when the benchmarks were developed, such as the ACCC electricity retailer billing data, and that in the future, researchers and other bodies will be more able to access information on consumer consumption and behaviour through reforms under the ESB's data strategy.<sup>43</sup>

- **Benchmarks are used for Energy Made Easy:** Benchmarks are currently used to enable an estimate of likely future energy costs for consumers who do not provide their NMI when searching.<sup>44</sup>

The AER has stated that if the change were made, it would continue to use the 2020 benchmarks for this purpose.<sup>45</sup> In further information provided, the AER has stated that Energy Made Easy does not require data to be refreshed every three years. Instead, it could continue to use results from 2020 while developing methods to establish average consumption data based on relevant energy drivers. In the future, average consumption data could be updated in line with changes in consumer behaviour and other external impacts, such as households responding to climate change.

The AER has also stated that incorporating any future updates to the benchmarks into Energy Made Easy would not be automatic, and would require development work and additional resources - however, it could form part of a longer-term program of continuous improvement for Energy Made Easy.

## 2.5 Developing the benchmarks uses resources

The AER currently develops benchmarks through a survey of consumers, matched with consumption data provided by AEMO and distribution businesses. In 2020, this took approximately 12 months, including a survey of approximately 6,500 consumers.<sup>46</sup> It sets out that "the development of bill benchmarks is a significant cost and resource burden on the AER – costing hundreds of thousands of dollars," and that those resources could be better directed elsewhere.<sup>47</sup>

The request also states that the proposed change would reduce the regulatory burden on distributors, who are currently required to provide detailed consumption data to the AER for the development of the benchmarks.<sup>48</sup>

### QUESTION 1: ELECTRICITY CONSUMPTION BENCHMARKS

Once they have been removed from retail bills, will electricity consumption benchmarks still be useful? If so, for what purposes?

If benchmarks are useful, should they continue being updated using the previous methodology, or are there alternative approaches?

43 *Rule change request*, pp 11-12.

44 Energy Made Easy, [How the Energy Made Easy plan search works](#), accessed 9 June 2023.

45 *Rule change request*, p 14.

46 *Ibid.*, p 8.

47 *Ibid.*, p 13.

48 *Ibid.*, p 13

## 3 MAKING OUR DECISION

When considering a rule change proposal, the Commission considers a range of factors.

This chapter outlines:

- issues the Commission must take into account
- the proposed assessment framework
- decisions the Commission can make.

We would like your feedback on the proposed assessment framework.

### 3.1 The Commission must act in the long-term interests of consumers

The Commission is required by the NERL to only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the NERO.

The NERO is:

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).<sup>49</sup> 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.<sup>50</sup> If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made (noting that there may be some overlap in the application of the two tests).

### 3.2 We propose to assess the rule change using these three criteria

#### 3.2.1 Our regulatory impact analysis methodology

Considering the NERO and the issues raised in the rule change request, the Commission proposes to assess this rule change request against the set of criteria outlined below. These assessment criteria reflect the key potential impacts – costs and benefits – of the rule change request. We consider these impacts within the framework of the NERO.

The Commission’s regulatory impact analysis may use qualitative and/or quantitative methodologies. The depth of analysis will be commensurate with the potential impacts of the proposed rule change. We may refine the regulatory impact analysis methodology as this rule change progresses, including in response to stakeholder submissions.

Consistent with good regulatory practice, we also assess other viable policy options - including not making the proposed rule (a business-as-usual scenario) and making a more

<sup>49</sup> Section 236(2)(b) of the NERL.

<sup>50</sup> Sections 236(1) and (2)(b) of the NERL.



preferable rule - using the same set of assessment criteria and impact analysis methodology where feasible.

### 3.2.2 **Assessment criteria and rationale**

Considering the NERO and the issues raised in the rule change request, the Commission proposes to assess this rule change request using the following focus areas.

- **Outcomes for consumers:** Electricity consumption benchmarks were originally put in place to support consumers to make more energy-efficient decisions about their consumption. We will consider whether benchmarks are still driving consumer energy efficiency choices or otherwise benefit consumers.
- **Implementation:** The AER put forward the costs to develop the benchmarks as a key reason for the rule change request. The Commission will assess the balance of continued costs with the aforementioned consumer behaviour and outcomes.
- **Principles of good regulatory practice:** We will consider the broader direction of reform, specifically whether other reforms currently underway would fill any gaps created by the removal of the AER's obligation to develop benchmarks.

#### **QUESTION 2: ASSESSMENT FRAMEWORK**

Do you agree with the proposed assessment framework? Are there additional principles that the Commission should take into account or principles included here that are not relevant?

## 3.3 **We have three options when making our decision**

After using the assessment framework to consider the rule change request, the Commission may decide to:

- make the rule as proposed by the proponent;<sup>51</sup>
- make a rule that is different to the proposed rule (a more preferable rule), as discussed below; or
- not make a rule.

The Commission may make a more preferable rule (which may be materially different to the proposed rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule is likely to better contribute to the achievement of the NERO.<sup>52</sup>

<sup>51</sup> The AER sets out the proposed rules to be repealed in Section 2 of the rule change request.

<sup>52</sup> Section 244 of the NERL.

## ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	See AEMC
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
NERL	National Energy Retail Law
NERO	National Energy Retail Objective
NERR	National Energy Retail Rules
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
Proponent	The proponent of the rule change request