

3/02/2021

Australian Energy Market Commission

Submitted online via: <https://www.aemc.gov.au/rule-changes/bill-contents-and-billing-requirements>

### **Submission on Bill contents and billing requirements: Draft Determination**

Tango Energy welcomes the opportunity to comment on the the proposed 'Better Bills' rule change. Tango Energy is a growing energy retailer with approximately 95,000 customers predominantly in Victoria. Tango Energy started serving small customers in New South Wales in March 2020, and expects to continue growing our presence serving small customers in states currently under the National Energy Customer Framework (NECF).

#### ***Investment uncertainty***

Providing a smooth customer experience is of paramount importance to Tango Energy's brand. Tango Energy recently contracted a service provider to re-design Tango Energy's bill template for small customers; comprehensive customer feedback was obtained prior to this re-design. Tango Energy aims to provide a new bill format which is easily digestible, while empowering engaged energy consumers with the knowledge they need to ensure they are getting a good deal.

We demonstrate below how the uncertainty created by the AEMC's draft determination has had a negative impact on Tango Energy's investment, resulting in additional costs and a considerably shortened investment timeframe and amortisation period. [REDACTED]

Confidential information has been omitted for the purposes of section 24 of the Australian Energy Market Commission Establishment Act 2004 (SA) and sections 223 and 268 of the National Energy Retail Law.

Assuming the AER guidelines may require another significant bill re-design, similar costs are likely to be incurred across industry, further adding to end consumer costs across the board. Further alteration of the content of the AER's guidelines will require further investment and costs.

#### **Costs**

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Tango Energy believes this demonstrates that this unnecessary uncertainty can potentially create higher costs for customers, and discourages investment in innovative solutions for customers. Furthermore, this creates the impression that retailers are slow to react to customer needs.

Tango Energy is also concerned that the broad scope granted to the AER to make guidelines under rule 25 of the National Energy Retail Rules (NERR) creates further uncertainty as to what retailers will be required to include on their bills. We are particularly concerned by the draft rule 25A(4)(b), which allows the AER to take into account 'any other matters that the AER, in its reasonable opinion, considers relevant to the billing objectives'. This sub-rule raises the prospect that the AER may add requirements to the guidelines which go beyond the stated objectives. This creates difficulty for Tango Energy and other retailers in anticipating the extent to which the AER guidelines will affect Tango Energy's bill design, further exacerbating the issues discussed above.

### ***Implementation and civil penalties***

Under the draft rule, retailers will have a minimum of 4 months from 1 April 2022 – the date by which the AER is required to publish the guidelines – to arrange any necessary concept or system changes before the guidelines become effective on 4 August 2022 (the effective date). By contrast, section 4.1.3 of the draft determination notes that the AER has a period of 12 months to make the guidelines.

We are surprised at the inconsistency, and based on the evidence provided above, request a minimum period of 9 months between the date the AER publishes the guidelines and the effective date. This would allow most retailers two quarterly billing cycles to implement and test any required system changes, giving industry a better chance of a smooth transition into the new AER guidelines from the effective date. In addition, Tango Energy is concerned that the compressed transition period of 4 months for retailers requires retailers to push through new bill designs and system changes without adequate testing, while imposing civil penalties for non-compliance.

The proposed civil penalty under draft rule 25(1) creates uncertainty for retailers as to whether they are compliant with the AER guideline (refer to section 3.1.4 of the draft determination). By their nature, the application of penalties in a regulated industry ought to be predictable, providing certainty about what the rule-maker expects. The current NERR rule 25 creates a clear expectation that if retailers fail to include any of the matters from rule 25(1)(a)-(x), a civil penalty may apply.

Tango Energy is also concerned that making a civil penalty available for any contravention of the AER guidelines – which may not be released until 1 April 2022 – will leave retailers unsure as to what is required of them. Should the AER guidelines prove vague or unduly broad in scope, this could have the unintended consequence of retailers including more information than is necessary on their bills in order to eliminate the risk of enforcement actions. Keeping in mind that the customer is the intended beneficiary of the AER guidelines, an overload of information caused by complex guidelines appears to be at odds with the original intent of the rule change request.

We propose that the availability of a civil penalty under draft rule 25(1) is limited to 'persistent' or 'material' contraventions of the AER guidelines. This would encourage the AER and retailers to discuss issues openly and work collaboratively in the best interests of customers, with civil penalties reserved for serious breaches.

***Review of AER guidelines***

If implemented, we agree with the proposal under section 3.1.4 of the draft determination that the AER guidelines be reviewed regularly. Given the AER's primary function under the National Energy Retail Law is intended to be of a regulatory, rather than legislative, nature, a regular review would ensure the AER is held accountable for making guidelines which meet the requirements of the draft rule 25A.

We propose that, if the draft rule 25A is implemented, a sub-rule 25A(5) is added to require the AEMC (or a party independent of the AER) to organise a review of the AER guidelines at least once every 12-month period from the effective date.

If you would like to discuss this submission, please contact me at [stan@tangoenergy.com](mailto:stan@tangoenergy.com) or 03 8621 6476.

Yours sincerely,

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