



public interest
ADVOCACY CENTRE

Submission to the AEMC's Bill Contents and Billing Requirements Draft Rule Determination

4 February 2021

About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in Sydney.

Established in 1982, PIAC tackles barriers to justice and fairness experienced by people who are vulnerable or facing disadvantage. We ensure basic rights are enjoyed across the community through legal assistance and strategic litigation, public policy development, communication and training.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in New South Wales. The program develops policy and advocates in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives input from a community-based reference group whose members include:

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

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Recommendation 1

That the rule change require paper bills be provided for free and retailers be required to ensure consumers are aware they are entitled to a paper bill.

Recommendation 2

The AEMC make changes to the Draft rule as commented on under each proposed clause/sub-clause in this submission.

Introduction

PIAC welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) Bill Contents and Billing Requirements Draft rule determination. This is an important process to ensure that bills are a more effective communication tool for energy consumers.

The ability for consumers to obtain a fair deal, budget for their bills, understand and control their energy usage, and access information regarding supports, is heavily dependent upon the information presented in energy bills. Inadequate, inconsistent or confusing information has a significant potential to inflict harm on consumers.

Bills are likely to remain a central source of information and contact with energy businesses for many households, especially those who cannot or do not want to participate in more digital options. Whilst the way consumers interact with energy services is changing, not all people have access to digital technology and for many, the ideal of the 2-sided market is a long way off. For many people, energy still remains a 'set and forget' arrangement. Even if apps are taken up, the initial novelty wears off and bills remain the main source of ongoing interaction. Bills remain an ongoing reference and are important for record keeping (including when digital reporting technology fails) to identify, understand and resolve potential disputes or issues

Ensuring basic billing comprehension by consumers should not be confused with stifling 'innovation'. There remains ample scope for retailers to be innovative in the remainder of their bills once they have covered the essential information. Real innovation and brand differentiation should be in product offering and service delivery. Requirements to uniformly present basic information about an essential service does not impact or impede genuine innovation or consumer choice and any claims to the contrary must be dismissed.

Draft rule

PIAC supports having a mandatory and enforceable AER guideline based on principles and guided by stakeholder consultation. The list of requirements in the current Rule 25(1) of the National Energy Retail Rules (NERR) is basic information that will not change in the near future and PIAC contends the current Rule 25(1) could be improved rather than removed and worked in conjunction with the AER guideline. However, PIAC sees opportunity that the NERR contain principles that the AER must consider in its development of the guideline.

Limited prescription has led to the current situation where bills are confusing. More prescription, not less is a sensible response to this situation. The AER guideline must have a certain level of prescription to ensure the long term interests of consumers is met. Prescription to ensure basic protections does not hamper real innovation. Innovation that is in the interests of consumers, such as improving communications for people with a disability, should be enabled by the guideline.

Although the AEMC has decided the issue of paper billing does not need to be considered further in this rule change, PIAC contends that paper billing should be free, as it is often people in the most vulnerable situations who need paper bills the most. Although under the National Energy Retail Law, small customers have the option to receive a paper bill and must give their explicit consent to receive an electronic bill, there are likely to be instances where consumers agree to

receive an electronic bill when this is not their preference as they are unaware of their options due to the power and information imbalance between consumers and retailers.

Recommendation 1

That the rule change require paper bills be provided for free and retailers be required to ensure consumers are aware they are entitled to a paper bill.

Recommendations for changes to the Draft rule

Recommendation 2

The AEMC make changes to the Draft rule as commented on under each proposed clause/sub-clause included below.

Rule 24 Frequency of bills (SRC)

In rule 24, omit subrule (1) and substitute:

(1) A retailer must issue bills to a small customer at least once every 100 days, or at such other time specified in the billing guidelines under rule 25A.

Whilst billing frequency can be negotiated, there is an information and power imbalance between retailers and consumers which could leave some consumers agreeing to a billing frequency that does not suit their needs or is not in their interests. Regardless of whether a consumer is on a market or standing offer, there should be minimum billing delivery arrangements of 100 days to ensure consumers are protected. The words 'or at such other time specified in the billing guidelines under rule 25A.' should be deleted from this clause.

(2) The objectives of the billing guidelines are to enable small customers to easily understand:

(a) payment amounts, dates and methods for their bill;

The words 'amount owed' should replace 'payment amounts' to remove confusion where a consumer has a more complicated payment arrangement such as bill smoothing.

Other basic information such address and NMI details must be included.

(b) how their bill is calculated and whether it conforms to their customer retail contract;

To ensure that consumers clearly understand how their bill is calculated, this sub-clause should also include:

- 'What their rate is and whether this has changed since the last bill (and what it was in the last billing period);
- Whether a customer is on a time-of-use tariff and if so, details about when the time periods apply and when they will change; and
- Whether there are any other conditions for the tariff/contract.'

(c) their energy consumption and production, and related costs and revenue, to assist with:

(i) using energy efficiently;

This sub-clause should be more specific to require information about where to get advice about energy efficiency for the consumer's climate zone, with a range of options across different budgets and tenancy situations and include details about any jurisdictional energy efficiency schemes.

In addition, it should include information/direct people to information about how to shift loads if they are on a time of use tariff (or have a meter which would enable them to be).

(ii) comparing their customer retail contract with other energy offers available to them;

This sub-clause should include the words, 'taking into consideration the customer's circumstances in terms of their energy use and payment history'.

This should require the inclusion of clear guidance about where to find energy offers from other retailers, i.e., the Energy Made Easy website and any jurisdictional switching assistance available.

(iii) considering options for energy supply other than through the interconnected national electricity system;

This sub-clause should include a statement that 'information about relevant government assistance programs be provided'.

(e) how to access interpreter services and seek financial assistance, (billing objectives).

This should be two separate requirements, i.e. 'How to access interpreter services' and 'How to seek financial assistance, (billing objectives).'

'How to seek financial assistance, (*billing objectives*)' should also include a statement to the effect that *'Customers must be made aware they are entitled to support from the retailer and must be provided with a variety of dedicated contact details (including a direct phone number) to access it.'* This should also require specific information about government assistance programs in the consumer's jurisdiction.

(3) The AER may, from time to time, amend the billing guidelines in accordance with the retail consultation procedure.

The guideline should have a regular statutory review (for instance, every 2 years) with a statutory timeline for implementation and a requirement for direct community engagement. This would enable the timely capture of changes in technology, innovation and community attitudes.

(4) In making and amending the billing guidelines, the AER:

(a) must take into account the following:

(i) the need for consumer protections for small customers, while also enabling retail market innovation, competition and consumer choice;

Energy bills are a mandatory communication tool for an essential service. 'Retail market innovation' and 'competition' should not be ends in themselves. If they are to be included there must be a consumer benefit attached to them.

(ii) the costs of compliance by retailers with the billing guidelines and the potential resulting costs for small customers;

(iii) whether the requirements in the billing guidelines are effective and proportionate to the expected benefits that result from achieving the relevant billing objectives;

Principle (4)(a)(ii) should be deleted as principle (4)(a)(iii) more accurately captures the proportionate cost to benefit of bill requirements.

A standard cost of providing an essential service should be to provide easy-to-understand bills. Aligning requirements with those already in place in Victoria would impose little costs for most retailers as they already operate there.

(iv) the potential benefits of standardising language and terminology across bills, customer retail contracts and energy offers;

The converse should also be examined: What is the cost to consumers – in time contacting their retailers and/or ombudsman services to explain bills, and in frustration and confusion – of the current situation of non-standard language and terminology?

This principle should also include the standardisation of format across bills, customer retail contracts and energy offers. Retailers arguing that their customers are happy with their bill format¹ does not outweigh consumer organisations and the AER arguing that 'bill formats are making it hard for some consumers to understand their bills'². Indeed, in their joint submission to the Consultation Paper, the ombudsmen services state: 'We also receive many complaints about billing format and content... Further inconsistencies with the way different retailers present information confuses customers'³ which further contradicts the claims of retailers.

Consistency of placement of basic information in a logical order would help consumers compare offers, switch offers and access third party energy services.

Standardisation of language and terminology should be across all forms of communication with consumers (for example, website and advertisements, not just bills, customer retail contracts and energy offers).

¹ Draft rule determination pp 12-13.

² Ibid p 13.

³ EWON, EWOV, EWOSA, EWOQ, joint submission to Consultation Paper p 3.

Continued engagement

PIAC would welcome the opportunity to meet with the AEMC and other stakeholders to discuss these issues in more depth.