

Submission to Draft AER Better Bills Guideline

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About the Public Interest Advocacy Centre

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

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

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

Energy and Water Consumers' Advocacy Program

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

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

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Public Interest Advocacy Centre



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The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

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Recommendation 1

Clear and prominent hardship assistance information should be included as part of Tier 1 information, with text included about how a consumer can ask their retailers for help.

Recommendation 2

Rebate information should be included in Tier 1.

Recommendation 3

Energy saving information with details about where to find assistance should be included in Tier 2 information.

Recommendation 4

Improved benchmark information should be included as part of Tier 2 information.

Recommendation 5

People must be able to specify how they would like to receive their energy bills, including a range of accessible options. These options must be provided free of charge.

Recommendation 6

Time-of-use information – including times and when times will change - should be included on bills.

Recommendation 7

Membership fees and other fees should be listed on bills to improve consumers' ability to compare offers.

1. Introduction

The Public Interest and Advocacy Centre (PIAC) welcomes the opportunity to respond to the Australian Energy Regulator's (AER) Draft Better Bills Guideline ('the Draft Guideline').

PIAC supports using a tiered approach to energy bills to ensure a logical and consistent flow of easily locatable information. We support some prescription on how certain aspects of mandatory information be laid out. In particular, Tier 1 information should be laid out consistently to make this information as simple as possible to locate.

The application of design principles to bill information should help consumers better understand their bill. The AER is well placed to provide a template for how the information should be presented and any deviation from retailers should be accompanied by research showing how the different design maintains or exceeds the AER's template for comprehension.

It is likely that the wording and design won't be optimal at first. Design and standard wording used should be regularly tested to help improve it.

2. Information that should also be required to be included on bills

PIAC supports many of the proposed prescribed requirements. However, a number of features should also be included as described below.

Available payment assistance

During 2020-21, the proportion of residential consumers in hardship programs decreased, whilst the average debt of consumers on entry to hardship programs increased and the amount of debt held by electricity consumers in hardship programs reached record levels.¹ These figures do not capture where people have:

- Reduced their energy usage to unhealthy levels to manage their energy bills.
- Sacrificed other essentials (such as food or medicine) to pay their energy bills.
- Sought lightly regulated or unregulated credit products to manage their cost of living. (For example, financial counsellors are seeing increasing numbers of their clients with Buy Now Pay Later (BNPL) loans² and are reporting that these loans are being used to cover everyday essentials including utility bills.³)

Consumers need to be aware help is available.

The requirement that retailers must help consumers experiencing payment difficulty and the availability of government supports must not be left to be included as 'Additional information'. This is vital information that must be included in Tier 1 information.

¹ Australian Energy Regulator (AER), 'State of the Energy Market', 279-280.

² Financial Counselling Australia, 'It's credit, it's causing harm and it needs better safeguards,' December 2021, 5.

³ Ibid 9.

Support workers, such as financial counsellors and case workers, still report that consumers have to say the ‘magic’ words for payment difficulty to be recognised by retailers.⁴ Of course, retailers should be providing consumers experiencing payment assistance with the help they need. However, arming consumers with ‘magic’ words could also help them get support. PIAC recommends a mandatory statement be included on bills such as: ‘If you are experiencing difficulty paying your energy bill, please contact us. By law, we must help you set or change a payment plan or help you go on our hardship plan where we can provide you with additional assistance.’

Recommendation 1

Clear and prominent hardship assistance information should be included as part of Tier 1 information, with text included about how a consumer can ask their retailer for help.

Rebates

Rebate information should be included in Tier 1. Anecdotally, PIAC has been informed that some eligible people slip off from receiving the Low Income Household Rebate. It should be clear whether the bill has a rebate applied. Of course, the onus should not be on consumers to make sure they are receiving their rebates. Retailers should be doing regular validation checks to ensure their consumers are still receiving rebates they are entitled to.

Recommendation 2

Rebate information should be included in Tier 1.

Energy saving tips

The AER’s focus groups with culturally and linguistically diverse (CALD) and older/non-digital consumers indicated a desire for energy saving information to be included on the bill.⁵

For most people, energy efficiency will help them reduce their bills and/or greenhouse gas emissions. For some people, this could help them use energy more wisely and help increase wellbeing. Generally, energy efficiency has energy system benefits.

Community support workers report ‘few...clients receiving useful energy efficiency advice or assistance from their retailers’.⁶ This indicates consumers could benefit from getting energy saving tips from places other than retailers and having information about where to get that information displayed prominently on energy bills.

Despite this, energy savings tips have not been prioritised in the Draft Guideline. Consumers consider energy saving information important. Accordingly, PIAC recommends this should be part of Tier 2 information with guidance about where further information can be found (that is suitable to the consumer’s climate, with a variety of options to suit different budgets and housing tenure).

⁴ Nicholls, Larissa and Dahlgren, Kari, ‘Consumer Experiences Following Energy Market Reforms in Victoria: Qualitative Research with community Support Workers, Final Report’ (2021), 20-21.

⁵ Australian Energy Regulator (AER), ‘Better Bills Guideline Behavioural and Consumer Research, Targeted focus group findings, Culturally and linguistically diverse consumers’, 9; Hall & Partners, ‘Australian Energy Regulator Better Bills Guideline Research Final Report’, 17.

⁶ Nicholls and Dahlgren (n 4) 36.

Recommendation 3

Energy saving information with details about where to find assistance should be included in Tier 2 information.

Benchmarks

Although in PIAC's joint submission to the AER's Developing the Better Bills Guideline Consultation Paper we raised concerns about benchmarks, we did, and still do, support the inclusion of benchmarks in the Guideline. As we stated in our previous submission, 'We contend that the benchmark comparisons are an important tool for consumers to understand their usage, but they should be accompanied by information about the limitations of the comparison and where a consumer can access information about using energy wisely to help them address any concerns.'

It was clear from the AER's research that consumers value benchmarks⁷ and, with improvements, they should be included as mandatory in bills. Even though BETA's research did not provide evidence that benchmarks result in changes to behaviour, people value having this information so it is important it be included.

Recommendation 4

Improved benchmark information should be included as part of Tier 2 information.

3. Other issues for consideration

Historical data

The AER's research showed people value having their historical data to compare their usage year to year.⁸ However, if they switch retailers, this information will not be provided on their bill.

The Consumer Data Right (CDR) is unlikely to solve this issue since the proposed peer-to-peer model currently has no mechanism for consumers to access their data for the same NMI from a previous retailer.

Consumers are encouraged to regularly switch retailers to help them save on their energy bills and yet this desire for historical data on bills discourages switching and favours incumbents.

Consumers who regularly switch retailers will only be able to access past data from short periods of time, which will mean it is of little value in determining: whether their consumption has changed; suitable plans; or energy products or services. This reduces consumer and system benefits.

It would be helpful if a mechanism could be found (such as through the CDR) to still include historical usage information on the energy bill even when a consumer switches retailer.

⁷ AER (n 5), 10; Behavioural Economics Team of the Australian Government (BETA), 'Improving energy bills: final report', 36.

⁸ For example, BETA (n 7) 3.

Accessible bills

Almost 1 in 5 Australians experience disability.⁹ To ensure people can understand their bills, consumers must be able to specify how they would like to receive their bills, including a range of free accessible options, such as paper-based bills (including in large print), electronic text format bills and bills by phone. Bills and retailer websites¹⁰ should contain information about how to receive accessible bills.

The reality remains that paper bills are the preferred, and sometimes the only, way to receive bills and manage payments and energy usage for many people in the community. This includes people on low incomes, people in vulnerable situations and older people.

Where people prefer to receive their bills electronically, billing information should be included in the body of emails or easily accessed through Apps. PIAC is aware of cases where links expire and/or links direct the consumer to websites which are difficult to navigate on a smart phone.

Recommendation 5

People must be able to specify how they would like to receive their energy bills, including a range of accessible options. These options must be provided free of charge.

4. Response to consultation questions

Question 6: Do stakeholders consider there is other information that should be included in the standardised plan summary to enhance comprehension and make it easier to compare plans? E.g. benefit conditions, payment options (direct debit only), bill frequency. What are the relative costs and benefits of including this information?

PIAC supports the concept of a standardised plan summary to help consumers understand how their bill was calculated, which is also important for trust and transparency.

For some people, it will also help them determine if they want to change plans or retailers and will assist them to choose a better offer.

PIAC supports the inclusion of the proposed information, including whether the benefit expires. If the benefit has expired, or the consumer is on a standing offer, then this should be made clear. This sense of loss of benefit could help prompt consumers to seek a better offer. Better still would be if this requirement encouraged retailers to continue the benefit period.

Time-of-use details

We recommend the AER also consider including:

- The times of any time-of-use feature of the plan.
- Whether the time-of-use times will change before the next billing period (i.e., because they are seasonal).

⁹

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/3A5561E876CDAC73CA257C210011AB9B?opendocument>

¹⁰

Online content should be compliant with the internationally recognised Web Content Accessibility Guidelines 2.0 Level AAA.

We have found consumers are sometimes confused about whether or not they are on time-of-use plans and if they are, when those times are.

Providing time-of-use information could help people know when they can shift certain loads to save money. It may also help people feel less worried about when they use their energy because they can feel more confident about when the different time periods are and what the price difference is.

Recommendation 6

Time-of-use information – including times and when times will change – should be included on bills.

Membership fees and other fees

In addition, there are a number of plans which have membership fees. Factoring this into whether an offer is better or not can be complicated for consumers. PIAC recommends the AER require retailers to include membership and other fees on the standardised plan summary to ensure consumers are fully aware of their energy bill make up.

Recommendation 7

Membership fees and other fees should be listed on bills to improve consumers' ability to compare offers.

Question 7: Do stakeholders consider there is specific or different information that should be provided for small and medium businesses who fit the definition of 'small customer'? What type of information is required and why? E.g. Australian Business Number, Australian Company Number, bill issue date. What are the relative costs and benefits of requiring this information?

It is important to be mindful that some consumers who are listed as small businesses are primarily residences and consumer protections should remain.

Question 9: What are the benefits to customers and the market?

The proposed approach should result in improved understanding about how energy bills are calculated. This is a desirable outcome in itself.

It could also result in:

- Improved understanding of how to reduce their energy bill.
- Higher confidence in querying a bill with a retailer.
- Less time spent adjusting to a new bill each time they switch retailer.
- Greater understanding and confidence asking for a better offer or switching retailers.

Question 11: Other than billing information, what barriers or challenges do customers face when seeking to access the best energy plan for them?

For the majority of consumers, switching retailers or getting a better plan is not an activity they regularly take part in. Many consumers may have switched retailers or changed plans in the past few years and then remained on their current offer on the assumption it is a 'good offer'. Retail

practices mean these consumers are likely to be on expired benefit offers or other defaults that are equivalent to a standing offer, even though they appear in the 'market offer' statistics.

Many people are not aware they are expected to regularly check and update their energy offer in order to pay a fair price. For most who are, it is an unwelcome chore at best and at worst a frustrating and confusing exercise that can seem impossible. For some, it can induce fear that they will be disconnected, have a less reliable supply or pay higher costs.¹¹ The accumulated burden on people increases every year. More and more aspects of their lives require high levels of understanding and 'engagement'. Energy can often be left, not because they are happy with their arrangements, but because other issues take priority.

People who have not switched retailers or changed plans should not be considered 'disengaged'. For many, not switching retailers or changing plans is an expressed preference. It is a response to their perceptions about the role of energy and a means of prioritising and coping with the issues they must deal with. They may rightly assess that any financial benefit gained from switching is often short lived and negated by the effort it takes to do successfully. Indeed, some market offers have less suitable conditions than standing offers,¹² leaving consumers worse off.

While the Default Market Offer (DMO) has helped reduce prices, it may lead consumers to mistakenly believe that being on the DMO means they are on a 'fair' price, which of course it intentionally does not.

Once a person has made a decision to switch retailers, they need to know where to look and then how to choose the right offer for them. PIAC looked at Energy Made Easy and putting in some basic information¹³ without a bill, found 758 available plans. From the top 10 least cost plans, PIAC found a dizzying number of options to navigate:

- Two had membership fees (one is for \$77.94 for the first 6 months and the other is \$80).
- Two offers are flat rates whilst the remaining offers have time of use rates, three of which have seasonal time changes. For some offers there are three different time of use rates, spread across five different times (peak, off-peak, shoulder, weekend peak and weekend off-peak).
- Move in/reconnection fees ranged from \$0 to \$87.25.
- Disconnection fees for moving out of premises ranged from \$0 to \$87.25, whilst one listed a different fee for disconnection for non-payment.
- Some also list reconnection fees separately, ranging from \$42.68 to \$73.92.
- Three offers had direct debit dishonor fees ranging from \$7.50 to \$11.00, whilst one offer had a cheque dishonor fee of \$11.00.
- Four offers included late payment fees ranging from \$12.00 to \$16.00.
- Four listed credit card payment fees, ranging from 0.36% to 1%.
- Two had payment processing fees. One 0.17% and 0.45% and the other is for 3%.
- One included a 20% discount.
- One has NRMA membership listed as an inducement.

¹¹ Nicholls and Dahlgren (n 4) 8.

¹² Such as a financial penalty for missing a direct debit payment.

¹³ A four person household in Minto, NSW with a smart meter, current retailer unknown. Energy Made Easy accessed on 9/11/21.

Most consumers would be at a loss to meaningfully interpret and navigate this complex information to confidently choose the best plan to meet their needs.

Question 12: What other feedback do stakeholders have in relation to the approach proposed/methodology above?

PIAC supports the inclusion of better offer information. The worth of including the better offer information should not just be determined by the number of people who take action to get on their retailer's best offer.

For a start, many people need to hear/read information more than once to take action. Nicholls and Dahlgren recommend that best offer information in Victoria also be included in other communications to consumers (emails, text messages and App notifications).¹⁴

Taking up a better offer is even harder for some people, particularly those in vulnerable circumstances. PIAC would support a mechanism for consumers in vulnerable situations to be automatically put on to best offers, provided their usage and payment history is taken into account.

Having to reveal to consumers that they are not on a retailer's best offer might encourage retailers to be more proactive about extending benefit periods or encouraging their consumers to be on a better offer lest they switch retailers.

Nicholls and Dahlgren found that in Victoria 'many households are not benefiting from the Best Offer reforms because they do not notice the Best Offer message on their bill'.¹⁵ They explain that some of this is because of 'digital communications and automatic payment arrangements'.¹⁶ They further found that '[s]ome Best Offer messaging used is ambiguous or confusing'¹⁷ and that issues such as 'lengthy retailer processes and offers to the 'Best Offer' on the bill confuse customers, cause distrust, and discourage future market engagement'.¹⁸

Nicholls and Dahlgren recommend enabling 'households to review and accept Best Offers in written format without calling their retailer'.¹⁹

Better offer information should:

- be in plain English, with language used consistently across retailers;
- be in a prominent and similar place on every bill;
- not be ambiguous;
- take into account a consumer's usage;
- take into account a consumer's payment history (for example, if a consumer often pays late an offer with a large late payment fee is unlikely to benefit them);
- be included in other communications with consumers;
- be able to be taken up using a written format (i.e., not having to call the retailer); and

¹⁴ Nicholls and Dahlgren (n 4) 58.

¹⁵ Ibid 7.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid 58.

- be automatically applied for certain consumers.

PIAC supports the inclusion of wording that providing better offer information is an AER requirement. This is a way to improve the trust consumers can place on the better offer information.

Question 13: What do stakeholders consider are the most appropriate measures of impact or success for the Guideline?

The new bill format is likely to cause some confusion for some people who have been receiving the same bill design for years. This period of adjustment must be taken into account when measuring the success of the new bills.

Where possible, consumer feedback should be sought in ‘the real world’, where consumers are asked to rate how easy their actual bill is to understand. Consumers should also be asked whether the bill helps them:

- feel confident about how their bill was calculated;
- know what they can do to query a bill;
- know help is available, must be given and how to get it;
- increase their trust in the energy market; and
- know different ways to reduce their energy bills.

The goal of the bill should be to help improve understanding. Taking actions such as switching retailers, obtaining a better offer from their existing retailer or undertaking energy saving behaviours are complicated decisions which include many factors, including having the time to do so. If the new bill format does not increase these things, this should not be seen as a failure.

Question 14: How should impact or success be communicated?

Impact should be communicated through usual AER channels.

5. Continued engagement

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