

31 January 2022

General Manager – Strategy Policy and Energy Systems Innovation Branch
Australian Energy Regulator
Level 17, 2 Lonsdale St
Melbourne VIC 3000

[Note: Confidential information has been removed from this submission]

Via email to consumerpolicy@aer.gov.au

Dear Consumer Policy Team,

Re: Draft Better Bills guideline

Simply Energy welcomes the opportunity to provide feedback on the Australian Energy Regulator's (AER) draft Better Bills Guideline (guideline).

Simply Energy is a leading energy retailer with approximately 730,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. As a leading retailer focused on continual growth and development, Simply Energy supports the development of effective regulation to facilitate competition and positive consumer outcomes in the market.

Simply Energy considers that the draft guideline is much more prescriptive than is necessary, especially in the context that the Behavioural Economics Team of the Australian Government (BETA) has found that a substantial majority of consumers do not find it difficult to understand their energy bills.¹ This suggests that retailers already design their bills in a way that meets their customers' needs and reflects their own experience and research into customers' responses to bill layouts.

Simply Energy's submission provides feedback on the key consultation topics in the AER's notice of draft instrument paper. We also recommend an alternative to the AER's proposed requirement to present billing information using a tiered approach.

The AER should rely on principles-based rules in the guideline

In our previous submission, we stated that some prescriptive minimum requirements are needed to ensure that critical information is standardised and easily understandable. Beyond those critical minimum requirements, we contended that the guideline should rely on principles-based regulation to promote retail market innovation and incentivise retailers to provide bills that align with their customers' preferences.

Principles-based regulation relies on a level of trust between the regulator and industry. However, the level of prescription in the draft guideline suggests that the AER either does not trust retailers to comply with the design principles or does not consider the design principles are sufficiently enforceable.

Simply Energy considers that the AER and stakeholders all have a clear and agreed understanding of the objectives of energy bills and the design principles that will deliver them. It is in the best

¹ Behavioural Economics Team of the Australian Government 2021, Improving energy bills: final report, October, p. 15.

interests of consumers for the AER to largely rely on principles-based regulation and to periodically review energy billing practices and evolution of customer preferences to ensure that retailers' billing practices are evolving in line with consumer needs and preferences.

When using both prescriptive and principles-based rules in an instrument, there should be a clear delineation between where the different types of rules are applied. Our view is that the draft guideline has overlapping prescriptive and principles-based rules, which will lead to redundant and contradictory obligations. For example, applying the proposed tiered approach would give retailers no opportunity to make design decisions that 'order the bill to make it easy to understand' or 'make the most important information most prominent'.

The tiered approach should be used to complement the design principles

Ideally, retailers should be able to rely on the design principles to guide the development of bills that are easily understandable for their customers. Prescriptive rules are unable to cover every possible scenario, which would lead to retailers' needing to push important information towards the back of customers' bills to comply with the requirements of the guideline.

If there were no tiered approach, Simply Energy considers that complying with the design principles would still require retailers to prepare bills using a similar information hierarchy. For that reason, there would appear to be little reason to impose overly prescriptive rules and remove retailers' flexibility to structure their bills in a way that meets their customers' needs.

Simply Energy considers that the proposed tiers of information should be retained, but should be used in a manner that better complements the design principles. Our **recommended alternative tiered approach** is that:

- Tier 1 information must be included on the first page of a bill
- Tier 2 information must be included on a bill and can be placed anywhere on the bill (including the first page)
- Additional information can be included on a bill and can be placed anywhere on the bill (including on the first page).

We consider that this alternative approach would not lessen the level of consumer understanding or consumer protections provided by the AER's proposed approach. This is because, to comply with the design principles, retailers will still need to ensure that their bills are easy to understand, have the most important information most prominent, and are ordered in an easily understandable way.

Our alternative approach continues to recognise the importance of the Tier 1 information and ensures that all retailers provide this critical information upfront on their bills. We are supportive of the guideline prescribing critical minimum requirements. We note that any Tier 2 or additional information that is placed alongside Tier 1 information on a bill could only be there if the retailer was confident that the information met the design principles. We consider this is a proportionate approach that achieves the bill objective and enables retail market innovation.

However, if the AER decides to retain its proposed tiered approach, we urge the AER to allow an 'important information' box within the definition of Tier 1 information. This would enable retailers to prominently display any important messages that are not covered by the other Tier 1 information. We note that retailers would still be required to comply with the design principles when deciding whether to utilise an 'important information' box. This solution would address some of the concerns we have about the lack of flexibility with the proposed tiered approach.

The language of the proposed design principles should be tightened

Simply Energy is pleased that the AER has introduced design principles into the draft guideline, and we are supportive of the proposed high-level principles.

Improving the design principles will enhance their enforceability

As the guideline will create binding and enforceable obligations on retailers, we propose that the AER revisit some of the language in the design principles to ensure these can be appropriately regulated. The design principles should focus on actions that are within a retailers' control. For example, section 13 of the guideline states that 'a bill must enhance customer comprehension'. While we can utilise colour, headings, fonts, white space, graphs etc. for the purpose of improving comprehension, we cannot ensure that the bill will enhance our customers' comprehension. Tightening the language of the design principles would improve the AER's ability to take action against retailers that do not comply with the design principles and provide their customers with confusing and unclear bills.

We are also concerned that section 18 of the guideline would impose significant costs on retailers as it appears to require investment in customer research and testing whenever bill layouts are adjusted. While consumer testing can provide useful information that can be used when applying the other design principles, we do not see any benefit in making consumer testing a specific obligation in the guideline. Simply Energy proposes that section 18 of the guideline should either be removed or drafted in a less mandatory manner.

The guideline should recognise the benefits of electronic bills

Simply Energy considers it is critical that the guideline includes some allowances for the benefits of electronic bills. [NB: Confidential information has been removed]

The AER may be able to allow for the continued benefits from electronic bills through the guideline's design principles. For example, the 'make the bill easy to understand' section of the principles could make it specifically clear that retailers may aid customers' usability of their bill by including hyperlinks or other interactive elements on electronic bills.

[NB: Confidential information has been removed]

The proposed tiered approach is too prescriptive and inflexible

As noted previously, we support the concept of tiered information, particularly the need to prescribe the Tier 1 information to be included on the first page of the bill. However, Simply Energy considers that the AER's proposed tiered approach is very prescriptive and largely removes our scope to design an energy bill that meets our customers' needs. In this section, we provide some examples of where prescriptive rules in the draft guideline would lead to worse consumer outcomes.

We consider that our alternative to the proposed tiered approach would provide retailers with the additional flexibility needed to avoid these types of outcomes.

Overly prescriptive rules would reduce our ability to highlight important information to customers

Simply Energy considers that the level of prescription in the proposed tiered approach would make it challenging for us to communicate important information to customers through the bill. Specifically, the proposed requirement that only Tier 1 information can be included on the first page of a bill would mean that we could no longer communicate all important information to

customers on the first page of their bill. Based on our experience, important information would not catch the attention of customers if relegated to the second or subsequent pages of the bill.

Simply Energy also urges the AER to recognise the consumer benefits of online services. Although these services will not be accessed by all customers, research and feedback from our customers indicates a strong preference for being able to obtain routine information and answers to straightforward questions online, without having to go through the identity and privacy checks needed when talking by phone with a service agent. These interaction methods need to be at least as prominent as a phone number on a bill.

Below are some specific examples of the types of important information that the proposed guideline would restrict from the first page of our bills:

[NB: Confidential information has been removed]

Overlapping prescriptive and principles-based rules leads to contradictions

Simply Energy is concerned that the level of prescription in the proposed tiered approach would make several of the proposed design principles largely redundant. For example, there is little opportunity for retailers to make design decisions that 'order the bill to make it easy to understand' or 'make the most important information most prominent' when the guideline largely prescribes the ordering of billing information.

In addition, the draft guideline has some overlapping prescriptive and principles-based rules that lead to contradictory obligations. As we previously stated, the guideline should clearly specify which aspects of the bill are covered by prescriptive rules and which aspects are covered by principles-based rules.

We have included some specific examples below of issues with contradictory or redundant obligations in the draft guideline:

- The proposed standardised plan summary largely replicates information in the 'understand your bill' section of the bill. This additional table appears to be redundant and may just add to information overload on a bill.
- In relation to the proposed standardised plan summary, we note that the term 'kWh' is an abbreviation, which does not align with the AER's proposed design principles (see section 11 of the guideline).
- There appears to be an inconsistency between the Tier 1 information and the transitional requirements in relation to amounts payable. Specifically, the Tier 1 information refers to 'amount due and due date', whereas the transitional requirements refer to 'the total amount payable by the customer, including amounts of any arrears or credits'. Information on arrears and credits must be permitted to be included on the first page of a bill going forward. Simply Energy would be concerned about our customers' experience if this information was not allowed to be displayed prominently on the first page of the bill.
- In relation to the proposed standardised plan summary, the AER states that the summary must use the format, order and terminology that is presented in the draft guideline. However, the standardised plan summary only refers to 'kWh' and makes no mention of 'MJ'. We would appreciate some clarification as to whether the standardised plan summary must also be included on gas bills, and the form that summary should take.

Better offer

Simply Energy is not convinced that a better offer requirement would foster competition and we do not support its inclusion on energy bills. A better offer message only informs a customer of other offers available from their current retailer. If a consumer is told they are on their current retailers' best offer, this may discourage the consumer from engaging in the market and seeking out alternative (and potentially cheaper) offers from other retailers.

Recent data published by the Essential Services Commission of Victoria (ESC) suggested that the Victorian best offer reform has not improved consumers' engagement with their retailer. Figure 3 of the recently published Victorian Energy Market Report 2020-21 showed that the proportion of Victorian households that are not on their retailers' best offer was much higher in 2021 than in 2020.² Consumer research commissioned by the ESC suggested that consumers may be less concerned about energy bills as they are more focused on more urgent financial matters.³ This real-world finding appears to contradict the BETA's findings⁴ that consumers had a substantially higher intention to compare or switch plans when a best offer message was presented.

In practice, it appears that consumers are much less likely to act on a best offer message than is suggested by a controlled trial where consumers are fully focused on an energy bill and its different elements. As a result, changes justified by this type of trial result will always have lower benefits than anticipated.

As the benefits of a better offer message are unclear, it seems unlikely that the implementation costs (noted in the next section of this submission) would provide value to our customers, who will ultimately pay for this reform through increases to the retail cost stack. However, if the AER were to proceed with a better offer requirement, we would urge the AER to incorporate the following design elements:

- **The better offer calculation should be made only on offers with the same metering configuration.** For example, the better offer message should not be used to compare the costs between time-of-use and flat tariff contracts. We consider that calculating the costs between different tariff structures would add unnecessary complexity and cost to the better offer calculation for limited benefit.
- **The better offer calculation should be made on a like-for-like basis.** Customers with non-financial benefits made a trade-off between discounts and non-financial benefits when signing up and should not have to remake this choice whenever they receive a bill. For that reason, customers receiving non-financial benefits should receive a better offer message based only on contracts available with the same non-financial benefit. Similarly, customers with Greenpower should only receive a better offer message based on contracts that have Greenpower.
- **The better offer calculation should only include offers that are generally available.** For example, some offers are restricted and are only available to customers that have joined a paid membership scheme or meet other conditions (such as, participating in a Virtual Power Plant trial). It would not be a good customer experience if a customer is told they must incur additional costs to access the better offer they have called us about.
- **The better offer calculation should exclude bundled plans.** As per the comments about generally available offers, a better electricity offer that is conditional on the customer also purchasing gas from the same retailer would lead to customer confusion and complaints. The

² Essential Services Commission 2021, Victorian energy market report: 2020-21, 29 November, Figure 3, p. 10.

³ Essential Services Commission 2021, Victorian energy market report: 2020-21, 29 November, p. 9, footnote 15.

⁴ Behavioural Economics Team of the Australian Government 2021, Improving energy bills: final report, October, p. 53.

better offer calculation should be made independently of the fuel type and not include offers that are artificially lower due to a contingent discount.

Implementation costs and timeframes

To comply with the draft guideline, we would need to re-design our current energy bills, [NB: Confidential information has been removed]

From our perspective, the better offer requirement would not substantially change the time required to implement the guideline. Simply Energy considers that six months is the minimum time required to make the necessary changes to the bill layout [NB: Confidential information has been removed].

Simply Energy notes that the Consumer Data Right (CDR) will be rolled out in the energy sector from October 2022. The innovations that arise from the CDR, as well as the expanding penetration of smart meters in the National Electricity Market, will likely change the way that consumers interact with their energy retailer and may lessen the usefulness of an energy bill as a form of engagement for consumers. In this context, the benefits of major redesigns of bills are unlikely to exceed the implementation costs.

Ongoing monitoring of the guideline

Simply Energy suggests that the AER commit to a formal review of the guideline. For example, this may occur after the guideline has been in effect for two or three years. The review should occur at a time that enables the AER to obtain real-world evidence to help determine whether the prescriptive elements of the guideline are meeting the bill objective and the national energy retail objective.

Simply Energy supports the AER actively monitoring retailers' implementation of the guideline. As the guideline has many principles-based requirements, Simply Energy would expect the AER to take an educational and collaborative approach to compliance monitoring, rather than seeking to penalise retailers for their interpretation of the guideline's principles.

Concluding remarks

In closing, Simply Energy looks forward to engaging with the AER to develop a guideline that ensures energy bills meet the long-term interests of consumers.

Simply Energy welcomes further discussion in relation to this submission. [REDACTED]

Yours sincerely



James Barton
General Manager, Regulation
Simply Energy