

Notice of Instrument: Draft Better Bills Guideline

Version 2

23 September 2022

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1 Request for submissions

Interested parties are invited to make written submissions to the Australian Energy Regulator (AER) regarding this paper and our draft Better Bills Guideline (Version 2) by close of business on Monday, 31 October 2022.

Submissions should be sent electronically to ConsumerPolicy@aer.gov.au.

Alternatively, submissions can be mailed to:

General Manager
Strategic Policy and Energy Systems Innovation
Australian Energy Regulator
GPO Box 520
Melbourne
VIC 3001

The AER prefers that all submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will be treated as public documents unless otherwise requested.

Parties wishing to submit confidential information are requested to:

- clearly identify the information that is the subject of the confidentiality claim
- provide a non-confidential version of the submission in a form suitable for publication.

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2 Executive summary

The Australian Energy Regulator (AER) published the Better Bills Guideline (the guideline) on 31 March 2022. The guideline set out how energy retailers must prepare and issue bills to small customers.

Following publication, the AER was notified of potential ambiguities in the guideline drafting. Some of the issues identified may lead to unintended consequences for consumers by impacting the operation of the better offer and the provision of information when the bill is estimated. We propose to amend the guideline to provide greater clarity on the operation of these requirements.

Furthermore, the Australian Energy Council (AEC) submitted a rule change request on 30 June 2022 to extend the implementation date of the guideline beyond 31 March 2023 ('Delaying implementation of the AER Billing guideline' (Reference: RRC0046)). Should a rule change of this nature be implemented, there may be consequential impacts on the drafting of application and commencement provisions. Therefore, in advance of the issue arising, we propose to amend reference to the 31 March 2023 commencement date. This will ensure that there is clarity in the operation of the guideline in the event that the date is changed.

This notice of draft instrument (the notice) accompanies the draft version 2 of the guideline.¹ It explains how and why the AER has arrived at the amendments outlined in the draft guideline.

We seek stakeholder comments on the draft amendments as proposed.

Submissions close on Monday, 31 October 2022. We expect to confirm the final guideline in November 2022.

¹ The guideline can be accessed at the AER website.

3 Proposed amendments to the guideline

3.1 Clarifying the self-read information requirement

During consultation on the draft version 1 of the guideline, the AEC and Origin indicated that the information related to estimated reading was not grouped logically with related information. Specifically, the notification of estimated readings (a Tier 2 information requirement) was not grouped with information on how to conduct a customer self-read (or 'customer read estimate' as defined by rule 21(3A) of the National Energy Retail Rules ('Retail Rules') (additional information)).²

To address this, a new requirement was inserted in version 1 of the guideline. This required retailers to present information and guidance on how to conduct a customer read estimate in Tier 2 information, with the notification that the bill was based on an estimated read. In practice, this requirement operates in accordance with the following:

- Section 41(g)(iii) of version 1 of the guideline provides that a bill that is based on an estimate must 'include the guidance and requirements for a customer read estimate required under rule 21(3C) of the Retail Rules'.
- Rule 21(3C) of the Retail Rules provides that 'a retailer must make available to small customers at no charge and in clear, simple and concise language for the purposes of subrule (3A): (a) guidance on how to read the customer's meter; and (b) the types of information the customer is required to provide when lodging the customer read estimate; and (c) instructions on the methods by which the customer can lodge the customer read estimate'.

In May 2022, Energy Global Co sought clarification on the extent of the information that must be provided to meet this requirement.

The current requirement means retailers would be required to include all of the guidance, information and instructions required by rule 21(3C) in Tier 2 information. However, the policy intention was to enable retailers to direct customers to this information on how to conduct a self-read, in a way that is logically grouped with related information (specifically, whether the bill is based on an estimate).

It was not the intention of the AER to require retailers to include detailed guidance information (as is currently provided on their websites) in the bill. This would not achieve the bill objective as prescribed by the National Energy Retail Amendment (Bill contents and billing requirements) Rule 2021 No. 2.

To ensure retailers are able to include a concise statement on how to access self-read guidance, rather than the comprehensive guidance/information/instructions prescribed in rule 21(3C) of the Retail Rules, the AER proposes to amend the Guideline. The draft version 2 of the guideline includes clarifying words to indicate retailers should include a statement on how to access self-read guidance and requirements where applicable.

² AEC (Australian Energy Council), [Submission to the draft Better Bills Guideline consultation](#), AER website, 10 February 2022 ('AEC draft Guideline submission'); Origin Energy, [Submission to the draft Better Bills Guideline consultation](#), AER website, 1 February 2022 ('Origin draft Guideline submission').

3.2 Clarifying better offer

3.2.1 Including exports in the definition of annual usage history

In calculating the better offer, retailers are required to consider the customer's annual usage history. The current definition is limited to the consumption of gas and electricity by a small customer.

The AEC has highlighted that omitting 'exports' from the definition of annual usage history creates a distinction from the Victorian best offer requirements. Furthermore, without regard to exports, the better offer check may not reflect an accurate calculation of the most suitable plan for a customer. This particularly impacts customers who are eligible for solar export credits.

The ESC considered the inclusion of 'exports' in its definition of annual usage history.³ It highlighted that the data used to calculate the better offer should include both consumption and export data, as the data used to inform the best offer calculation should be the customer's most recent 12 months of metering data.

It was the intention of the AER that the practical application of the better offer calculation would be the same as Victoria (even if it was not identically drafted). The AER extracted the ESC's Energy Retail Code of Practice best offer provisions in Attachment A of version 1 of the notice of draft instrument. The AER consulted on this definition of 'annual usage history' which included 'exports'.

To ensure retailers can accurately calculate the better offer check that is most suitable for the customer, the AER intends to amend the guideline to include 'exports' in the definition of annual usage history.

3.2.2 Aligning the frequency of better offer check and message

Version 1 of the guideline requires a better offer message once every 100 days, or in alignment with a billing cycle greater than 100 days.

In May 2022, Energy Global Co identified a potential misalignment between the requirements to conduct a better offer check and the required frequency of a better offer message. Specifically:

- Section 45 of version 1 of the guideline states that 'before issuing a bill to a small customer, a retailer must carry out a deemed better offer check for that customer and identify the relevant deemed better offer for that customer in accordance with this Part'.
- Section 51 of version 1 of the guideline states that a better offer message must be presented on the bill at least once every 100 days, or in alignment with an alternative billing cycle if the billing cycle is greater than 100 days.

Energy Global Co identified a tension between these requirements in instances where a customer is billed more frequently than once every 100 days. In practice, the current version

³ Essential Services Commission, [Building trust through new customer entitlements in the retail energy market](#), Final Decision, 30 October 2018.

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of the guideline requires a retailer to conduct a better offer check before issuing each bill, even if the message is not required to be displayed on that bill. To align these requirements and reduce cost to serve, the AER proposes to amend the guideline to ensure that retailers have clarity that the better offer check need only be performed when the better offer message is required on a bill, in line with the policy intention.

3.3 Flexibility for a change to the implementation date

Part 1 of version 1 of the guideline states that all provisions in the billing guideline must commence by 31 March 2023. The AEMC initiated consultation on the potential for a delay to the date by which retailers are required to comply with the new billing requirements.⁴

The AER provided a letter of support signed by Jim Cox, Deputy Chair, supporting the rule change request with the view that greater flexibility around implementation may drive greater compliance and lessen implementation costs for retailers.⁵ If the AEMC determines to amend the date, then version 1 of the guideline will not reflect the updated rules. Amending the guideline to refer retailers to the Retail Rules for the date by which the new billing requirements commence will ensure there is consistency between version 2 of the guideline and the Retail Rules.

To overcome this issue, where version 1 of the guideline currently requires retailers to comply from 31 March 2023 onwards, the AER proposes to amend those provisions in a way that facilitates the possibility of a rule change extending that date.

⁴ AEMC, [Consultation paper: National Energy Retail Amendment \(Delaying implementation of the AER billing guideline\) Rule 2022](#), AEMC website, 18 August 2022.

⁵ AER, [Australian Energy Council's Rule Change Request proposing a six-month deferral of Better Bills Guideline implementation date](#), AEMC website, 4 August 2022.