

**Estimation as basis for bills rule change proposal**

## 1. Name and address of the rule change proponent

**Name of Proponent:** The Honourable Josh Frydenberg MP, Minister for the Environment and Energy on behalf of the Australian Government.

**Address of Proponent:** Parliament House, Canberra, ACT.

## 2. Summary

The Australian Government submits this request to the Australian Energy Market Commission (AEMC) to change the National Energy Retail Rules (NERR), and make any requisite changes to the National Electricity Rules (NER) and the National Gas Rules (NGR).

In simple terms, this rule change proposal seeks to reduce a small customer's exposure to over- or undercharging of electricity and gas bills as a result of receiving an inaccurately estimated bill. Enabling a customer to submit a self-read, such as a photograph of their meter reading, for the purpose of estimation, will improve the accuracy of estimated meter reads and allow customers to quickly address situations where an estimate provided by a retailer is inaccurate. Introducing a broad obligation for retailers to ensure their bills are not based on estimations which are grossly inaccurate will further incentivise improved accuracy in estimation. In addition, the proposal requests the AEMC to consider whether it is appropriate to impose civil penalties on retailers in these circumstances.

The proposal adds to the Australian Government's ongoing efforts to achieve the best outcomes for energy consumers.

### Actual and Estimated Meter Reads

Under the NERR, a retailer must base a small customer's bill for the consumption of electricity on metering data, or on any other method agreed by the retailer and the small customer. Similarly, a bill for the consumption of gas must be based on an actual reading of the relevant meter, on metering data, or on any other method agreed by the retailer and small customer<sup>1</sup>.

However, retailers may base a small customer's bill on an *estimation* of the customer's consumption of energy where the customer so consents, or where:

- the retailer is unable to reasonably or reliably base the bill on an actual reading; or
- metering data is not provided to the retailer by the person responsible for reading the meters<sup>2</sup>.

Electricity and gas retailers must use their best endeavours to ensure actual readings of the meter are carried out as frequently as required to prepare their bills consistently with the metering rules, and at least once a year<sup>3</sup>.

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<sup>1</sup> NERR 20 (1)

<sup>2</sup> NERR 21 (1)

<sup>3</sup> NERR 20 (2)

The NERR provides three options for the basis of the estimations: the small customer's reading of the relevant meter; historical metering data for the customer; or, where there is no historical data, the average use of energy by a comparable customer<sup>4</sup>.

When a small customer receives a bill that is based on an estimated read, the retailer must inform the small customer on the bill that it is based on an estimation<sup>5</sup>.

### Issues beyond the National Energy Retail Rules

Beyond the NERR, both the Australian Energy Market Operator (AEMO) and the Australian Energy Regulator (AER) oversee procedures and mechanisms which compel or incentivise the reading of meters, a function usually performed by distributors or, for electricity, by meter data providers who will estimate readings when required.

(AEMO, through its *Metering Data Provider Service Level Procedures* and *Retail Market Procedures*, imposes obligations on electricity meter data providers and gas distributors to use their *reasonable endeavours* to undertake an actual reading usually every three months.

The AER sets regulated charges for electricity and gas distributors, where those services are regulated. These charges include meter reading services as part of a broader annual metering operating and maintenance charge rather than on a 'per meter read' basis. For most customers, metering charges are part of the overall tariff.

### The nature and scope of the issues addressed by the proposal

While smart meters are gradually being rolled out across the National Electricity Market, providing the ability to remotely read the meter, estimated reads continue to be necessary in many situations. This may include circumstances where manually-read meters are installed (gas meters and Types 4A, 5 and 6 electricity meters) and there is a genuine inability to access the meter, where accessing the meter may pose a risk to the meter reader, or where a meter is located in a very remote area.

However, an estimated read, especially successive use of estimated reads, has the capacity to expose consumers to significant under- or overcharging. This may be particularly pronounced where:

- a small customer has substantially changed their energy consumption, rendering historical data obsolete for the purposes of estimation. This could occur through altered consumption behaviour, new appliances, the addition/removal of a pool, or a change in the number of occupants in a dwelling; or
- in circumstances where there is no historical data and a small customer's actual consumption differs significantly from the average usage of the other customers on which an estimation is based.

The NERR includes provisions which account for circumstances in which a customer has been overcharged as a result of an estimation. These provisions enable an adjustment to the next bill

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<sup>4</sup> NERR 21 (2)

<sup>5</sup> NERR 21 (3)

based on an actual meter reading or metering data<sup>6</sup>. The NERR also includes undercharging provisions which enable a retailer to recoup the undercharged amount. These provisions require the retailer, at the request of the small customer, to offer the customer time to pay that amount by agreed instalments over a period of up to 12 months, except where obtaining actual metering data was frustrated by an act or omission of the customer<sup>7</sup>.

Although these provisions provide for bill correction, both overcharging and undercharging, particularly where the amounts are significant, can nonetheless represent a substantial financial shock for small customers. The Australian Government believes that the rules (and the National Energy Retail Regulations) should be amended to minimise the likelihood and impact of such occurrences, and to incentivise retailers to ensure their estimated bills are as accurate as possible, through the imposition of civil penalties. Currently, civil penalties are not imposed on retailers for non-compliance with the rules relating to estimation as the basis for bills (Rule 21), excepting the obligations at Rule 21 (4) for a retailer to make adjustments to later bills for overcharging / undercharging a customer.

The NERR provisions dealing with estimation as the basis for bills do provide small customers with the ability to request that an estimated bill be replaced by a bill based on an actual read in cases where the estimated bill was issued because an attempt to conduct an actual read of the meter was unsuccessful due to the fault of the customer<sup>8</sup>. In these cases, if the customer subsequently requests the estimated bill be replaced with a bill based on an actual meter reading, the retailer must comply with this request but may pass through any cost. However, the NERR does not provide a general ability for all customers who have received an estimated bill to obtain a replacement bill based on an actual read. The NERR also does not address the initial issue of the customer receiving a bill based on a very inaccurate estimation, and requires a customer to pay for an actual reading.

The NERR's broader billing dispute provisions also require retailers to review a bill if requested to do so by the small customer, in accordance with the retailer's standard complaints and dispute resolution procedures, including any time limits applicable under those procedures<sup>9</sup>. If the customer requests that, in reviewing the bill, the meter reading be checked, this check must be undertaken<sup>10</sup>, however, the customer will have to pay for the cost of the check or test and may have to do so in advance<sup>11</sup>. The only circumstances prescribed by the rules where a customer must be reimbursed for the cost of the test is where the meter or metering data proves to be faulty or incorrect<sup>12</sup>. As metering data is not the basis of an estimated bill, the issue of incorrect estimates is not adequately addressed by these provisions and this also would confer a cost upon the customer.

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<sup>6</sup> NERR 21 (4)(a)

<sup>7</sup> NERR 21 (4)(b)

<sup>8</sup> NERR 21 (5)

<sup>9</sup> NERR 29 (1), (2)

<sup>10</sup> NERR 29 (5)(a)

<sup>11</sup> NERR 29 (5)(b)

<sup>12</sup> NERR 29 (5)(c)

### How the proposal addresses the issues

This rule change proposal is specifically aimed at improving a small customer's ability to submit their own meter reading as a basis for estimation, and enabling a small customer to simply and quickly obtain an adjusted estimated bill based on a customer's own meter reading. Although the Rules allow a retailer to use a customer's reading of the meter as the basis for estimation, the rules need to be strengthened to enable a customer to submit their reading of the meter as the basis for estimation to improve the accuracy of estimated bills. The proposal also seeks the introduction of a broad obligation for retailers to ensure their bills are not based on an estimation which is highly inaccurate. Further, the Australian Government considers civil penalties should be applied to ensure compliance with the existing and proposed estimation requirements, and asks the AEMC to consider where it may be appropriate to apply penalties.

Specifically:

- To limit the potential for an inaccurate estimation, the proposal seeks to require a retailer to accept a self-read, such as a photographed meter reading, submitted by the small customer prior to receipt of a bill, should one be submitted, as the basis for an estimation if the retailer reasonably considers that reading to be accurate.
- To improve the accuracy of billing, the proposal seeks to require a retailer, at the request of a small customer, to adjust an estimated bill in accordance with a self-read submitted by the customer, if the retailer reasonably considers the customer's reading to be accurate.
- To ensure small customers are aware of their ability to request a replacement estimated bill based on their own meter reading, it is further proposed that a retailer must inform a small customer, on an estimated bill, that the customer may provide a self-read of the relevant meter as the basis for an adjustment, and that, should the retailer reasonably consider the reading to be accurate, the retailer will issue the customer with an adjusted estimated bill.
- To limit the potential for significant over or undercharging, the proposal seeks to require a retailer to ensure a bill is not based on a meter estimate that is grossly inaccurate.

Some retailers and distributors already have similar voluntary arrangements in place for their customers<sup>13</sup>, including where a customer can submit a photograph of their meter as a meter reading. By implementing these amendments to the NERR (and any requisite changes to the NER and NGR), the Australian Government believes this will extend these arrangements to all customers, improve the accuracy of billing, and limit the potential for a small customer to experience a financial shock from bills based on inaccurate estimations.

Details of the manner in which the proposed amendments will operate in the NERR is set out in the discussion below.

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<sup>13</sup> For example, Ergon will authorise customers to read their own meters in certain circumstances: <https://www.ergon.com.au/network/connections/metering/self-meter-read>.

### 3. Description of the proposed rule

In accordance with section 243 of the NERL, the Australian Government requests the AEMC make a number of changes to rule 21 NERR:

#### **Rule 21**

- (1) A retailer may base a small customer's bill on an estimation of the customer's consumption of energy only where:*
  - (a) the customer consents to the use of estimation by the retailer; or*
  - (b) the retailer is not able to reasonably or reliably base the bill on an actual meter reading; or*
  - (c) metering data is not provided to the retailer by the responsible person.*
- (2) Where a retailer uses an estimation as the basis for a small customer's bill, the retailer has an obligation to ensure this bill is not based on a meter estimate that is grossly inaccurate.*
- (3) Where estimations are permitted to be used as the basis for a small customer's bill, the estimations may be based on:*
  - (a) the customer's reading of the relevant meter; or*
  - (b) historical metering data for the customer reasonably available to the retailer; or*
  - (c) the average usage of energy by a comparable customer over the corresponding period, if there is no historical metering data for the customer.*
- (4) Where:*
  - (a) a small customer has requested a retailer use the customer's reading of the relevant meter as the basis for estimation of the customer's next bill; and*
  - (b) before the bill is issued and within a seven-day time period agreed with the retailer, the small customer has provided a self-read of the meter to the retailer in the format required by the retailer; and*
  - (c) the retailer reasonably considers this meter reading to be accurate,*

*the retailer must use this meter reading as the basis for the estimated bill.*
- (5) Where:*
  - (a) a small customer requests a retailer provide an adjustment to an estimated bill and that estimated bill is not based on a customer's reading of the relevant meter; and*
  - (b) the small customer makes this request within 21 days of the issue date of the estimated bill; and*
  - (c) the small customer provides the retailer with a self-read of the meter that the retailer reasonably considers to be an accurate,*

*the retailer must provide the small customer with an adjusted estimated bill based on the meter reading information provided by the customer.*

(6) *The retailer must inform the small customer, on the bill, that:*

(a) *the bill is based on an estimation; and,*

(b) *where the estimation was not prepared pursuant to 21 (3), the customer may obtain an adjusted estimated bill from the retailer by providing the retailer with a self-read of the meter that the retailer reasonably considers to be accurate.*

(7) *Without affecting rule 20 (2), if the retailer has issued the small customer with a bill based on an estimation and the retailer subsequently issues the customer with a bill that is based on an actual meter reading or on metering data:*

(a) *The retailer must include an adjustment on the later bill to take account of any overcharging of the customer that has occurred; and*

(b) *Unless the actual meter reading or metering data could not be obtained as a result of an act or omission by the customer, the retailer must, if requested to do so by the customer, offer the customer time to pay any undercharged amount by agreed instalments, over a period being no longer than:*

(i) *the period during which an actual meter reading or metering data was not obtained, where that period is less than 12 months; or*

(ii) *in any other case, 12 months.*

**Note:** *This subrule is a civil penalty provision for the purposes of the Law.*

(8) *Where an attempt to read the small customer's meter is unsuccessful due to an act or omission of the customer, and the customer subsequently requests a retailer to replace an estimated bill with a bill based on an actual meter reading, the retailer must comply with that request but may pass through to that small customer any costs it incurs in doing so.*

(9) **Application of this rule to standard retail contracts**

*This rule applies in relation to standard retail contracts*

(10) **Application of this rule to market retail contracts**

*This rule applies in relation to market retail contracts (other than prepayment meter market retail contracts), but only to the extent (if any) a contract provides for estimation as the basis for the small customer's bill.*

## **4. Contribution to the National Energy Retail Objective, National Electricity Objective and National Gas Objective**

The Australian Government views this rule change proposal as, fundamentally, promoting the efficient operation of energy, electricity and natural gas services in the long term interests of consumers. The proposal aims to ensure the establishment of effective estimated billing arrangements as part of ensuring a customer's potential exposure to inaccurately estimated bills is limited to the extent possible. The proposal also seeks to ensure customers are able to quickly address situations where an estimate provided by a retailer is grossly inaccurate.

For consumers, the rule change enables customers to make more efficient decisions about their energy use, noting inaccurate estimates have the potential to mislead customers about their consumption. The proposal may also better ensure all consumers have access to arrangements which enable them to avoid facing a large sum for payment or repayment as a result of overcharging or undercharging from inaccurate estimation. This rule encourages improvements in the quality of service, assists in equipping consumers with tools needed to better engage with the market, better ensure consumer confidence in the retail market, and is clearly in the long-term interests of consumers.

Given the second arm of the rule-making test in s 236(2)(b) of the NERL, it is also noted that the implementation of this proposed rule is inherently compatible with the development and application of consumer protections for small customers. Measures to address inaccurate estimated bills and to encourage and facilitate consumer engagement with their retailer on their energy bills are well aligned with existing consumer protections in the NERL and NERR.

## **5. Benefits, costs and implications of the proposed rule**

### Benefits

As stated above, the practical benefit of making this rule is that it will encourage improved accuracy in the estimation of a customer's energy consumption, with the potential outcome of reducing the impact of under and overcharging, as well as providing customers with an accurate understanding of their energy use.

Improving the ability of consumers to provide their own meter reading as the basis of an estimation also has the benefit of encouraging greater consumer engagement. The changes potentially reduce the cost of resolving billing disputes, including the need for follow-up site visits.

Additionally, the changes could encourage customers who have ongoing meter reading issues to switch to a remotely read smart meter.

A further key benefit of the rule is that it will build consumer trust in the market and limit the risk of bad consumer experiences.



Risks, Implications and Treatment

<b>Issue</b>	<b>Treatment</b>
<i>Cost of reviewing a customer's provided meter reading.</i>	<p>It is possible that the cost of reviewing and processing a customer's own meter read may marginally increase the complexity and cost incurred in the management of the estimation process by retailers.</p> <p>However, retailers routinely review metering data and billing to identify potential outliers, and reviewing a customer-submitted reading is not likely to impose significant additional costs on these parties.</p> <p>The Australian Government considers that any cost associated with this obligation may be offset by the potential of these changes to reduce the cost of resolving billing disputes, including the need for follow up site visits.</p> <p>Further, given the small number of circumstances in which the obligation is expected to arise – where the customer has made this request and provided a meter reading – the Government considers that any cost associated with this obligation can be readily absorbed by retailers.</p>
<i>Quality and accuracy of the customer's meter reading</i>	<p>There is a risk that a customer attempting to submit a self-read of their meter may not capture the correct meter, necessary data or information. The Government considers this risk is addressed in the relevant proposed rules which describe a self-read "that the retailer reasonably believes to be accurate" and which require a customer to submit the reading in the manner required by the retailer.</p>
<i>Cost of issuing an adjusted estimated bill when provided with an accurate self-read meter reading</i>	<p>Any obligation to provide an adjusted estimated bill to a customer may result in some cost to the retailer. Ultimately the risk and cost posed by the obligation, when considered in light of the risk and cost to a consumer facing, in the short term, a higher bill, or a significant repayment sum, is a risk and cost best managed by the retailer.</p> <p>Given the small number of circumstances in which the obligation is expected to arise – where the customer has made this request and provided a self-read – the Government considers that any cost associated with this obligation can be readily absorbed by retailers.</p>
<i>Interaction of the timing of the reissued / adjusted estimated bill with the ongoing billing cycle</i>	<p>The proposed obligation for a retailer to provide an adjusted estimated bill to a customer may have some implications for the billing cycle. It is therefore suggested that it would be appropriate to stipulate timeframes in which a customer must request the adjusted bill.</p>

## 6. Additional Considerations

While the Government considers the matters discussed in this rule change proposal can largely be addressed through changes to the NERR, the AEMC may also need to consider issues covered under the NGR and the NER, which, among other relevant matters, provide for the publication of AEMO's metering data provision procedures. These may require consequential changes or additional, complementary changes to the NGR and NER.

In respect to the changes to NERR Rule 21 proposed above, the AEMC may wish to consider:

- whether it may be appropriate to impose civil penalties on retailers for providing a bill based on an estimate which is grossly inaccurate;
- the interaction of this obligation at *proposed* Rule 21 (2) with the rules and procedures which establish how retailers and metering data providers can calculate and use estimates;
- whether it may be appropriate to apply civil penalty provisions to the broader estimation requirements in Rule 21, including penalties on the existing Rule 21 (1) and (2). Ensuring that breach of all enforceable parts of this rule can result in a financial penalty may act as an effective deterrent to non-compliance and the provision of inaccurate estimations;
- whether it may be appropriate to specify a threshold or percentage of deviation to define 'grossly' inaccurate estimations at *proposed* Rule 21 (2)
- the appropriate timeframe in advance of the issuing of an estimated bill that the customer must submit their meter reading under the *proposed* Rule 21 (4);
- the appropriate timeframes in which:
  - a customer must request an adjusted estimated bill pursuant to the *proposed* Rule 21 (5), or
  - a retailer must provide an adjusted estimated bill to the customer;
- whether it may be appropriate to require a retailer who has determined that a photographed meter reading submitted by a customer is not accurate, to explain to that customer why the reading is not considered to be accurate;
- the implications for the *proposed* Rule 21 (5) for the broader billing cycle;
- approaches to ensure customers seeking an adjusted bill under the *proposed* Rule 21 (5) do not lose access to their conditional pay-on-time discounts;
- approaches to minimize the likelihood of customer-retailer disputes under the proposed provisions;
- the interaction of the proposed changes with the broader billing disputes provisions at Rule 29;
- the interaction of the provisions at the existing Rule 21 (4) with the undercharging provisions at Rule 30 and the overcharging provisions at Rule 31 and whether these provisions are consistent with one another;

The AEMC may also wish to consider whether a reduction to the maximum timeframe in which a retailer must use its best endeavours to ensure an actual read occurs under Rule 20 (2), from 12 months to 6 months, would be a complementary approach to address the issue of inaccurate

estimations. This would increase the frequency of actual reads and thereby limit the potential financial impact from a succession of inaccurately estimated reads. However, such an amendment may also reduce flexibility for retailers, particularly in circumstances where a meter is difficult to access, and has potential to increase meter reading costs, which will ultimately be borne by consumers. This proposal may also have implications for elements of the NER and the NGR.

If the AEMC considers that changes are required to the NGR or NER to support the issues raised in this rule change proposal, these should be in scope of the AEMC's review.