public interest
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Keepin' it real: the value of actual meter reads

Submission in response to the Australian Energy Market Commission's Draft Rule Determination on the *National Electricity Amendment (Meter Read and Billing Frequency) Rule 2016*

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Introduction

The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from NSW Trade and Investment for its work on energy and water, and from Allens for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

Energy and Water Consumers' Advocacy Program

The Energy + 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 aim of the program is to develop policy and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council of NSW;
- Salvation Army Eastern Australia Conference;
- St Vincent de Paul Society of NSW;
- Physical Disability Council NSW; and
- Tenants Union of NSW.

Assessing the efficacy of the AEMC Draft Rule Determination – Meter Read and Billing Frequency

PIAC welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) Draft Rule Determination on the *National Electricity Amendment (Meter Read and Billing Frequency) Rule 2016*. The Draft Rule Determination is in response to Ergon Energy Queensland's (Ergon) rule change request, which sought to allow retailers to delay issuing a bill to customers on standard retail contracts until the Meter Data Provider (MDP) provides an actual meter read. PIAC believes that both frequency and accuracy of billing are key consumer protections against bill shock and financial hardship. PIAC therefore supports the Draft Determination as it strikes an appropriate balance between frequency and accuracy of billing where advanced metering is unavailable, and is a significant improvement on Ergon's original proposal.

The rule change

Under Rule 24(1) of the *National Energy Retail Rules*, a retailer must issue bills to customers on standard retail contracts at least once every three months, which on average equates to 92 days. Contrary to this strict obligation, the relevant Australian Energy Market Operator procedures impose a lesser obligation on MDPs, requiring them to use 'reasonable endeavours' to ensure that meter data is collected at least once every 3 months (for electricity[1]) or every 91 days (for gas[2]), plus or minus two business days. Ergon argued that this misalignment in obligations provides incongruent timeframes for retailers and MDPs, and encourages retailers to issue estimated bills because they often do not receive actual meter read data in time to issue a bill every three months in line with Rule 24(1). Ergon submitted that the number of small customers receiving bills based on actual meter data increased from approximately 80% to 99% when the billing timeframe increased to 100 days.[3] On this basis, Ergon proposed to amend Rule 24(1) to require retailers to use 'best endeavours' to issue bills to a small customer at least once every three months. In response to Ergon's rule change request, the AEMC proposed to amend Rule 24(1) to strictly require retailers to issue bills to customers on standard retail contracts at least once every 100 days, which prolongs the quarterly billing timeframe by up to eight days.

Impact on consumers

Estimated bills can cause confusion and lead to customer hardship where usage has been significantly under or over-estimated, resulting in back-bills or customers being required to pay for energy they did not use. In 2014/15 EWON received 1,824 complaints about estimated bills and 1,597 complaints about back-billing out of a total 17,924 billing complaints.[4] In comparison, in 2013/14 EWON received 1,757 estimated billing complaints and 1,916 back-billing complaints out of a total 20,843 billing complaints.[5] While the annual reports do not specify how many of these estimated billing complaints relate to gas or electricity, or to delays in the provision of meter data as opposed to unavoidable situations such as lack of meter access or locked gates, EWON's statistics indicate that customers increasingly reported estimated billing as an issue at a time

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[1] AEMO Service Level Procedures 6.4.1(c) and 6.4.1(e).
[2] AEMO Retail Market Procedures (NSW and ACT) 3.1.5(d).
[3] AEMC Draft Rule Determination, p.26.
[4] EWON Annual Report 2014/15, p.33.
[5] EWON Annual Report 2013/14, p.26.

when overall billing complaints decreased. This indicates that estimated billing is a consistent driver of Ombudsman complaints in NSW and is unlikely to be an issue isolated to Queensland.

PIAC understands that, in a context without the remote reading benefits advanced metering provides, the issue raised in the Draft Determination is fundamentally a balancing act between the frequency and accuracy of bills. PIAC agrees with the AEMC that Ergon's proposal is not in the long-term interest of consumers and does not meet the consumer protection test. Even if the billing cycle was to be capped at four months (as Ergon suggested) and consumers would benefit from accurate billing, adopting Ergon's proposal would be a step backwards from the current level of consumer protection in Rule 24(1) as consumers would likely receive larger and less frequent bills. This will likely adversely impact low-income households the most, as they are least likely to have the financial capacity to budget for larger and less frequent bills.

While a delayed bill of up to eight days could impact on consumers unfavourably, PIAC believes that, on balance, the Draft Determination delivers clear and tangible benefits for consumers that outweigh potential detriment. Barring meter access and bad weather issues, consumers will receive bills based on their actual energy usage instead of estimated usage. PIAC anticipates that the Draft Determination will protect consumers from unnecessary estimated bills, subsequent back-bills and customer confusion around receiving multiple bills, resulting in higher consumer confidence in retailer billing practices. Although quarterly billing in arrears is not an effective billing model to assist with budgeting, bills based on actual meter data will nonetheless provide some level of certainty for budgeting. Therefore, PIAC believes that the Draft Determination appropriately limits the potential detriment that consumers would otherwise experience under Ergon's proposal while delivering the benefits of billing based on actual meter data.

Although the Draft Determination reasonably provides a more flexible billing timeframe for retailers, PIAC notes that the AEMC does not expect that the billing timeframe will default to 100 days. PIAC agrees that this is unlikely to occur as retailers have a strong financial incentive to issue bills as soon as actual meter data becomes available. PIAC believes that, as a guiding principle, it would be industry best practice and in the best interest of consumers for retailers to minimise any delay in issuing a bill once actual meter data is available. A bill should only be delayed past the regular quarterly billing cycle if actual meter data is unavailable. This is because quarterly billing in arrears is an archaic billing practice that can result in unexpectedly high bills, and longer billing delays are likely to place low-income households at further risk of hardship. It allows customers to accumulate significant arrears, and the lack of timely information prevents consumers from budgeting effectively as well as actively monitoring and adjusting their usage.

Customers on market retail contracts

PIAC is concerned that customers on market contracts who are billed quarterly will not benefit from the consumer protections in the Draft Determination. As Rule 24 is confined to customers on standard retail contracts, the Draft Determination will impact on a small but not insignificant number of customers. In NSW 28.31% of 3,325,055 electricity customers and 21.36% of 1,282,256 gas customers were still on standard contracts as at 31 December 2015.[6] It is important to consider that as long as customers remain on manually read meters, estimated billing will continue to be an issue that affects market contract customers as much as it affects

[6] AER Retail Statistics obtained from http://www.aer.gov.au. These figures include residential and small business customers.

standard contract customers. This is true of electricity and gas, but more so for electricity in light of the impending rollout of advanced meters from 2017. Given that this rollout will be consumer-driven rather than mandatory, consumer take-up of these meters will likely be gradual rather than instant. PIAC therefore recommends that the AEMC consider extending the rule change to customers on market contracts. As the Draft Determination is worded such that retailers are required to issue bills 'at least once' every 100 days, it is unlikely to impact customers on market contracts that provide monthly billing.

Recommendation

PIAC recommends that the AEMC extend the operation of Rule 24 to small customers on market retail contracts so that all customers who are billed on a quarterly basis can benefit from the Draft Determination.

Other comments

PIAC also agrees with the AEMC that the Draft Determination provides clearer language to encourage retailer compliance around regularity in billing cycles. The AEMC's preference for a strict requirement ('must issue bills') over the more ambiguous standard proposed by Ergon ('best endeavours to issue bills') sends a clear compliance signal to retailers and provides the Australian Energy Regulator with sufficient clarity for compliance monitoring. In keeping with the 'harmonisation' intent of the *National Energy Customer Framework* (NECF) in electricity and gas regulation, it is important that the Draft Determination is applied to both sectors to ensure that an equitable level of consumer protection is provided to electricity and gas customers.

PIAC notes that the proposed 100-day billing timeframe was informed by statistics provided by Ergon. As such, PIAC suggests it would be useful for the AEMC to obtain similar data from retailers in each NECF jurisdiction to determine whether the Draft Determination will deliver similar consumer benefits across the NECF jurisdictions.