



Australian Energy Market Commission

CONSULTATION PAPER

NATIONAL ENERGY RETAIL AMENDMENT (BILL CONTENTS AND BILLING REQUIREMENTS) RULE

PROPONENT

Hon Angus Taylor MP, Minister for Energy and Emissions Reduction

24 SEPTEMBER 2020

RULE

INQUIRIES

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ABOUT THE AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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1 EXECUTIVE SUMMARY

On 16 April 2020, the Honourable Angus Taylor MP, Minister for Energy and Emissions Reduction, on behalf of the Australian Government (the proponent), submitted a rule change request to the Australian Energy Market Commission (AEMC or Commission) to amend the National Energy Retail Rules (NERR).

The aim of the proposal is to simplify energy bills, so households and small business owners can better understand and manage their bills. It covers both gas and electricity bills. The proposal states that clearer energy bills may help small customers engage with the retail market to find better offers, driving competition.

The Minister proposes that rule 25 in the NERR be replaced entirely. The key concerns are that the rule:

- does not provide standard nomenclature and consistent bill formats, leading to consumer confusion
- results in bills with too much complex data, causing information overload
- does not help educate consumers about support tools (e.g. Energy Made Easy)
- does not stipulate how bills are to be delivered to customers (consumers should always have access to a paper bill if that is their preference).

Rather than specifying the minimum information that retailers must include in bills, it is proposed the rule contain an objective and outcome-based principles, to which a new Australian Energy Regulator (AER) guideline must have regard. The proposal also lists issues that the AER may address in its guideline, such as specifying requirements as to the manner of issue or delivery of a bill to small customers. The rule change proposes retailers would have to comply with the AER guideline on small customer bills.

The Commission is now seeking feedback on whether stakeholders:

- agree with the identified problems and their materiality. That is, that rule 25 of the NERR is not delivering energy bills that householders and small business owners can understand, and the need for greater stipulation on how bills are delivered.
- support the proposed solution or alternative solutions, and why.

Feedback is required on how these problems and their impacts will evolve over time given digitalisation, key post-2025 reforms (two-sided market design) and the introduction of a Consumer Data Right (CDR) in energy. The Commission recognises that not all customers are currently, or will be, digitally enabled. The Commission will be guided by the principle that there should be no winding back of existing consumer protections, especially for consumers who do not have access to digital technology.

Submissions on this consultation paper are due by Thursday, **22 October 2020**. The Commission welcomes input on the questions posed in this paper, and any other aspect of either the rule change request or this paper. A response template is available.¹

¹ Available at <https://www.aemc.gov.au/rule-changes/bill-contents-and-billing-requirements>

2 THE RULE CHANGE REQUEST

The goal of the rule change is to deliver "simpler and more understandable bills for all energy consumers" and "reduce market complexity while strengthening the ability of consumers to make informed decisions".² The proponent considers that bills are a key tool for informing consumers about their energy usage and costs. Easier-to-understand and accessible bills would help consumers:

1. understand and manage their energy consumption and costs
2. be willing and able to engage in the retail market, leading to more competition in the retail market.

The scope of the rule change covers gas and electricity bills, and households and small businesses (small customers). The new rule provisions would apply to both standard retail and market retail customers.

The rule change request states that the existing rule:

- does not provide standard nomenclature and consistent bill formats, leading to consumer confusion
- results in too much complex data on bills, causing information overload and frustration
- does not help educate consumers about support tools and services (e.g. Energy Made Easy).

The second problem the proponent identifies is the absence in the rules of overall requirements on retailers regarding how a bill is issued or delivered to small customers. The concern is that, today and in the future, consumers should always have access to a paper bill if it is their preference.

The key components of the rule change proposal are:

- Replacing rule 25 of the NERR with provisions requiring the AER to develop a mandatory guideline that would apply to gas and electricity retailers for households and small businesses' bills.
- Provisions in the NERR for:
 - an objective and supporting principles for the guideline, to which the AER must have regard
 - aspects of bills on which the guideline could specify requirements, such as the manner of the delivery of a bill, and requirements that could vary by factors such as customer type, energy type, or jurisdictional application.
 - the AER to publish a sample bill or an explanation of key terms.
- The new rule provisions would be subject to a civil penalty if a retailer fails to comply.
- The AER could amend the guideline from time to time in accordance with the retail consultation procedure.

² Hon. Angus Taylor MP, Minister for Energy and Emissions Reduction, Rule change request, *Bill contents and billing requirements*, 17 April 2020, pp. 3 and 6.

The solution advocated for by the proponent is "the standardisation of energy bills across the retail sector".³ The guidelines would deliver this by establishing a single reference point on the "required form, content and delivery" of energy bills.⁴

The proponent also suggests the Commission consider the broader framework by which customers are given information. For instance, requirements on retailers regarding bill frequency in rule 24.⁵

The rule change request does include a proposed rule, and is available on the AEMC website, www.aemc.gov.au.

3 Ibid, p. 3.

4 Ibid, p. 6.

5 Ibid, p 8.

3 THE CURRENT SITUATION

This section describes the current rules framework for bills, the problems the rule change proposal is seeking to address, their causes and impacts. The Commission is seeking feedback on whether stakeholders agree the identified problem and its impacts; that is, that rule 25 of the NERR is not delivering energy bills that householders and small business owners can understand.

While customers' interaction with their energy bills is generally an individual experience that occurs in private, trends exist in the energy sector that are relevant to customers' bills. As such, feedback is requested on how this problem and its impacts will evolve over time given digitalisation, key post-2025 reforms (two-sided market design) and the introduction of a Consumer Data Right (CDR) in energy.

3.1 The current regulatory framework

3.1.1 The content of small customers' energy bills

Under the NERR, retailers are required to prepare a bill so that small customers can easily verify that the bill conforms to their retail contract.⁶ Additionally, rules 25 (for small customers) and 170 (for small customers who are residential customers) specify content that retailers must include in energy bills for these customers.

The content that retailers must include in energy bills can be classified into five categories, shown in table 3.1.

Table 3.1: Energy bills - content and function served

FUNCTION	RULE	REQUIREMENT
Pay the bill	25(e)	the pay-by date for the bill and the bill issue date
	25(f)	the total amount payable by the customer, including amounts of any arrears or credits
	25(r)	details of the available payment methods
Understand usage	25(k)	particulars of the average daily consumption during the billing period
	25(l)	if a bill was issued by the same retailer for the corresponding billing period during the previous year, particulars of the average daily consumption during that previous billing period
	170(1)(a)	a comparison of the customer's electricity consumption against the electricity consumption benchmarks (AER benchmarks under rule 169).
	170(2)	This information must be presented in a graphical or tabular

⁶ NERR, part 2, rule 25.

FUNCTION	RULE	REQUIREMENT
	and (3)	form, as appropriate and in a manner which is easy for the customer to understand.
	170(1)(b)	a statement indicating the purpose of the information provided with respect to those benchmarks
	170(1)(c)	a reference to an energy efficiency website
Administrative	25(a)	the customer's name and account number
	25(b)	the address of the customer's premises for the sale of energy and the customer's mailing address (if different)
	25(c)	the meter identifier
	25(m)	the estimated date of the next scheduled meter reading (if applicable)
Seek help	25(s)	a reference to the availability of government funded energy charge rebate, concession or relief schemes
	25(t)	a telephone number for account enquiries, the charge for which is no more than the cost of a local call
	25(u)	a telephone number for complaints (which may be the same as that for account enquiries), the charge for which is no more than the cost of a local call
	25(v)	a separate 24 hour telephone number for fault enquiries and emergencies, the charge for which is no more than the cost of a local call, being the telephone number for the distributor and giving the name of the distributor
	25(w)	contact details of interpreter services in community languages
	25(x)	any proportionate billing information in accordance with rule 22.
Understand how the bill was calculated	25(d)	the billing period
	25(g)	tariffs and charges applicable to the customer
	25(h)	the basis on which tariffs and charges are calculated
	25(i)	whether the bill was issued as a result of a meter reading or an estimation and, if issued as a result of a meter reading, the date of the meter reading
	25(j)	the values of meter readings (or, if applicable, estimations) at the start and end of the billing period
	25(p)	any amount deducted, credited or received under a government funded energy charge rebate, concession or relief scheme or under a payment plan
	25(n)	details of consumption or estimated consumption of energy

FUNCTION	RULE	REQUIREMENT
	25(q)	if the customer has provided a security deposit, the amount of that deposit

Source: NERR, rules 25 and 170.

3.1.2

The format of bills and how small customers receive them

The overall **format of bills** is not specified in the NERR, the NERL or in any other AER document (i.e. guideline). Retailers must comply with the content requirements under rule 25 of the NERR, but generally they have discretion on how to present that information. The rules do specify how a retailer presents a customer's electricity consumption against the AER's electricity consumption benchmarks; it must be presented in a "graphical or tabular form, as appropriate" and "in a manner which is easy for the customer to understand".⁷

Requirements in the rules related to the **frequency of energy bills** vary with the type of contract. If a small customer is on a standard retail contract, a retailer must issue the bill at least once every 100 days. If a bill is issued after this period, a civil penalty may apply.⁸ However, a small customer and retailer may agree to a different billing cycle.⁹ As a result, some customers have a monthly or three monthly billing cycle. For customers on a market retail contract, there are no requirements in the rules on the frequency of bills. It is agreed between the relevant retailer and customer.

The rules only specify **how a bill should be delivered for standard retail contracts**. Clause 18 of the model terms and conditions for standard retail contracts in the NERR¹⁰ specifies that bills must be sent in writing.¹¹ This requirement only applies to the sale of electricity and/or gas under a standard retail contract, and not under a market retail contract. For market retail contracts a bill must be issued but the rules do not specify how they should be delivered. Retailers and customers generally agree on the bill mode of delivery.

3.1.3

Asking for information about an energy bill

If small customers need usage information beyond what is presented in their bill, they can request their historical billing data from their retailers under the NERR. Retailers and distribution network providers must use reasonable endeavours to respond to customer requests for billing information within 10 business days.¹² Retailers must provide a small customer with this information for the previous two years and it must be provided without charge.¹³ These provisions include a civil penalty in case of a breach.¹⁴

⁷ NERR, rule 170(2)-(3).

⁸ NERR, rule 24(1).

⁹ NERR, rule 24(2).

¹⁰ NERR, Model terms and conditions for standard retail contracts, Schedule 1, clause 17.

¹¹ This would include, for example, via email. In South Australia, section 8 of the *Electronic Communications Act 2000 (SA)* provides that electronic communications can be used to satisfy a requirement to give information in writing.

¹² NER, rule 7.14(c)(4).

¹³ Note a reasonable charge on historical billing data can be levied where data covering the previous two years has been requested more than four times in any 12 month period (for electricity supply) or one in any 12 month period (gas supply), or where the request is for usage for an earlier usage period.

The rules establish a mechanism for specifying the format in which retailers present this additional metering data. Consumption information must be provided in the manner and form specified in the Australian Energy Market Operator (AEMO)'s Metering Data Provision Procedures (MDPP).¹⁵ The MDPP must specify the manner and form in which *retail customer's metering data* must be provided, including a detailed format and a summary data format.¹⁶

3.1.4 The Victorian Energy Retail Code

The Victorian government has not adopted the NERR in its entirety. Instead, the Victorian Energy Retail Code applies as the legal framework for retail contracts and billing provisions. The proposed rule therefore, if made, would not apply in Victoria.¹⁷

Most of the requirements in rule 25 of the NERR are included in rule 25 of the Victorian Energy Retail Code. However, in terms of content there are a number of differences related to:

- average daily cost for each smart meter tariff component¹⁸
- for customers with smart meters: consumption for each monthly period over the past 12 months presented in a graph format¹⁹ and index readings at the start and end of the billing period and the total amount of electricity consumed each period in respect of the relevant tariffs²⁰
- information about the Victorian government's energy comparison site and how to access it, including a link²¹
- for electricity bills, the front page must provide information on how to access the *Victorian default offer* (VDO).²²
- information on greenhouse gas emissions connected with the generation of the electricity supplied or electricity generation in general.²³

The Essential Services Commission (ESC) has recently introduced the following two changes to the way Victorian consumers can access their energy bills and information:

1. **Customers are entitled to deemed best offer information on bills and bill summaries** (October 2018): Under this change, retailers must regularly ²⁴display their 'best offer' on customer's bills, along with advice on how to access it. Retailers must also personalise the information by using the customer's actual meter data to calculate the

14 NERR, rule 28(1) and 28(2).

15 NERR, rule 56A; NER, rule 7.14.

16 NER, 7.14(c).

17 It relates to a part of Division 4 that currently does not apply in this state as a result of the Victorian Energy Retail Code enactment.

18 Energy Retail Code, rule(k).

19 Ibid, rule 25(nn).

20 Ibid, rule 25(y).

21 Ibid, rule 25(z).

22 Ibid, rule 25(za), including specifically the following text: "The Victorian Default Offer is a reasonably priced electricity offer set by Victoria's independent regulator. Contact us on [phone number] to discuss the suitability of this plan for you".

23 Energy Retail Code, rule 25A(2).

24 Once every three months for electricity and once every four months for gas. Victorian Energy Retail Code, rule 70Q.

savings available. This change also included that all bills must include information about how the customer can access the government's comparator website, Victorian Energy Compare.²⁵

- 2. Fact sheet to help customers engage confidently in the retail energy market** (March 2019): This change introduced a Victorian energy fact sheet to support customers in navigating the complexity of market offers, with key information about available energy offers in a consistent format across retailers. It includes a comparison table that compares plans based on an average yearly cost for a range of typical customers. Its form and content is based on the requirements of the AER energy fact sheets, drawing on the research undertaken to support document design.²⁶

3.2 The leading issues and their causes

3.2.1 Understanding energy bills

As noted earlier, the proponent considers that small customers are struggling to understand their energy bills. For instance, some find it hard to understand from the bill how the total amount they owe has been calculated. The proponent suggests there are two key causes of bill confusion:²⁷

- **The content of bills is no longer fit-for-purpose:** some bill content is now unnecessary, there are gaps in content and the language is too complex. Unnecessary content is making bills too information-dense and complex. Putting additional information on bills could help consumers navigate the energy market by accessing services. For example, information on Ombudsman schemes and the Australian Government's energy price comparison website, Energy Made Easy. Finally, the language used in bills is too complex and inconsistent across retailers. The current rule does not stipulate simple, standardised nomenclature.
- **The format of bills is not focused on the end-user:** the proponent argues information is not presented clearly nor focused on helping the end-user. The proponent considers that because the format is not specified in the NERR, bill formats are inconsistent across the sector, which can lead to confusion for the consumer when trying to understand their bill.²⁸

The Commission is seeking stakeholder perspectives to better understand the difficulties small customers are experiencing in understanding their bills and the key cause(s) of those difficulties. It notes that bills serve several functions for consumers. They help consumers to:

- pay the bill
- understand their usage, their current cost drivers and future opportunities to reduce costs (e.g. better understand — the plan they are on, trends in their usage, other suitable plans in the market and/or whether to invest in solar or battery systems)

²⁵ Victorian Energy Retail Code, Part 2A, Division 4, rule 70N.

²⁶ *Amendments to Part 2, Division 4 — Customer retail contracts.*

²⁷ *Ibid.*, pp. 4-5.

²⁸ *Ibid.*, p. 4.

- identify themselves to others (e.g. for energy providers and other identification and verification purposes)
- know where to get support
- understand how the bill was calculated and check it complies with their plan/offer.

The information in a bill generally relates to one particular bill function (see Section 3.1.1, table 3.1). The AEMC is seeking to understand whether all the current information is needed on each bill, or whether information strictly for billing purposes could be separated from other information that periodically may be useful. For example, information that helps consumers check other energy plans in the market or information needed to change retailers. This periodic information may be provided in other tools, such as online energy profiles for consumers or phone applications.

If many or some small customers are finding it hard to understand their bills and use them as intended, then it is important to understand how the requirements in the NERR²⁹ or the absence of requirements contribute to this.

QUESTION 1: UNDERSTANDING ENERGY BILLS

1. Do you agree with the statement of issues by the proponent, that bills are no longer fit-for-purpose because there are gaps in content, the information is too dense, and the language is too complex? Please explain your view.
2. If you consider there are issues with billing, do the NERR billing provisions cause or contribute to these issues? Please explain your view with reference to the specific requirements listed in Table 3.1.
3. What other factors also contribute to the billing issues you have identified (e.g. lack of educational tools or campaigns)?

3.2.2

Receiving energy bills

As detailed earlier, the proponent is concerned that the rules do not contain overall requirements on retailers regarding how retailers issue and/or deliver a bill to small customers. The Minister is particularly concerned about consumers who may not have access to, or are not confident using, the internet or phone applications and that they "could be easily disadvantaged in a completely electronic environment"³⁰, where they cannot get a paper bill at all (or at an affordable price).

The rule change request states that the NERR do not stipulate how bills should be delivered to consumers, and considers that consumer choice should be the foundational principle going forward. For consumers that are not typically digitally-engaged, the proponent considers that introducing a clear provision in the rules that would give small customers a choice on how

²⁹ Rules 25 and 170

³⁰ Ibid, p.5.

they receive their energy bills would give them certainty where the future is technology-dominated, and paper bills are rare.

QUESTION 2: RECEIVING ENERGY BILLS

1. Do you agree there is a need to specify requirements for retailers on how they issue and deliver bills? Please explain your view.
2. Do you have a view on how best to give effect to the principle of consumer choice driving billing issuance and delivery? Please explain your view.

3.3 The problem over time: digitalisation, post 2025 reforms and the Consumer Data Right

There are two key changes in the market that are relevant to consumer protections in energy. The first is that energy will increasingly flow two-way (as consumers generate or consume energy at different times) and the second is digitalisation. Both of these changes are relevant to consumer billing.

Two way energy flows mean consumers will need information that allows them to understand their generation in addition to consumption, and digitalisation offers opportunities for more data-rich and convenient forms of communication with consumers. Both of these changes are being considered in the Energy Security Board (ESB) 2025 work program.

Additionally, the Consumer Data Right is enabling consumers to share their usage and billing data with third party service providers for uses such as bill checking, plan or retailer selection, or to inform investment decisions in solar or batteries.

3.3.1 Key aspects of digitalisation for small customers

Digitalisation can provide consumers with opportunities for:

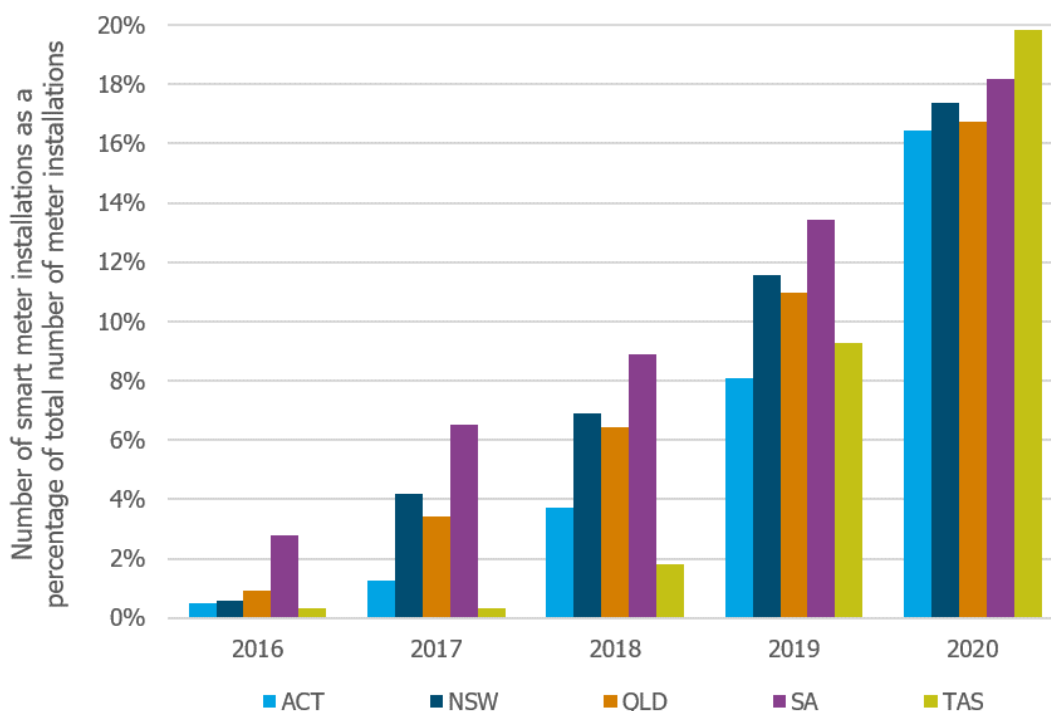
- **Easy access to usage data:** new digital platforms, such as phone applications and web portals, have become dynamic interfaces between a customer and their retailer. These can provide easy access to energy usage data made available every five minutes by smart meters. By tracking usage patterns these applications can empower customers to adapt their consumption behaviours to manage their energy efficiently.
- **Automation of energy management:** digitalisation is reducing the need for (some) householders and businesses to "read" usage data in order to change their consumption patterns and thereby bill amounts. Consumers can program their smart applications with settings that automatically adjust the energy usage of household appliances throughout the day to take advantage of low prices or the capabilities of their distributed energy resources. For example, in a house with a solar PV system, an app may set a washing machine to run during the sunniest hours of the day, or charge a battery during low prices and conserve battery use for the evenings when higher demand places upward pressure on retail prices.

3.3.2 The drivers of digitalisation: smart meters

A key technology that enables these changes are smart meters. The number and proportion of small customers with smart meters is forecast to grow significantly across the NEM with the rapid uptake of rooftop PV.

Smart meters have been competitively rolled out across the Australian Capital Territory, New South Wales, Queensland, South Australia and Tasmania following the AEMC’s *Competition in metering* reforms. Since December 2017, all new and replacement electricity meters need to be smart meters, and every new dwelling must be fitted with a smart meter, including apartments. Figure 3.1 shows the percentage of small customers who have installed smart meters over the past five years in all NEM states except Victoria. The figure shows that in all these regions, currently at least one in six meters is a smart meter. In Victoria, the compulsory roll-out of smart meters between 2009 and 2013 has led to Victoria already having close to 100% penetration of smart meters.

Figure 3.1: Smart meter penetration in the NEM



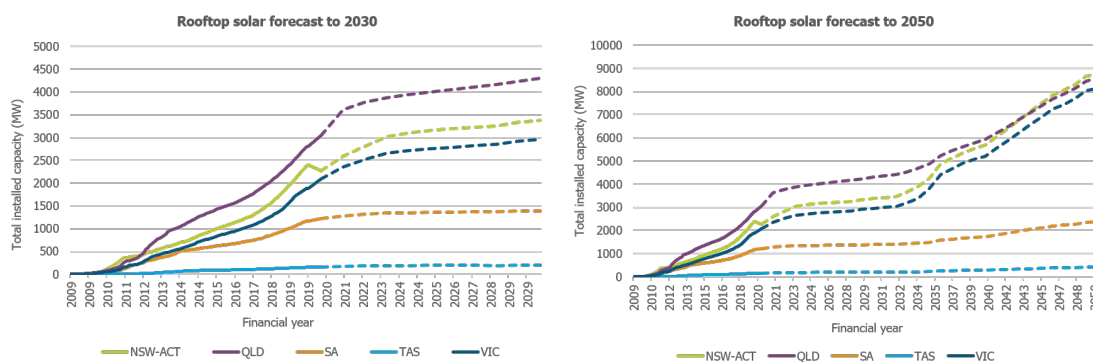
Source: AEMC analysis of MSATS data.
Note: Meter counts are at 30 June each year.

As all rooftop solar systems are installed with smart meters the forecast growth in solar PV installation in the NEM is expected to increase the number and proportion of smart meters. Figure 3.2 presents the forecast growth in rooftop solar capacity for all small customers in the NEM. It suggests a significant upward trend in smart meter installations in NSW-ACT and

Queensland in the coming ten years, and a material increase in those regions from 2035 to 2050.³¹

The number of smart meters will increase irrespective of solar PV uptake as new buildings are built, significant renovations take place, consumers request them and meters are replaced due to faults of asset-life replacement.

Figure 3.2: Rooftop solar projections



Source: AEMC, *Annual Market Performance Review 2019*, final report, April 2020.

Note: Initially sourced from AEMO and the Clean Energy Regulator data. Available in the Annual Market Performance Review data portal.

3.3.3

Associated developments: the Consumer Data Right (CDR)

The CDR will allow consumers to share their energy data with a third party. This third party could then provide consumers with services; from helping them check their energy bill to (under authorisation) automatically switching a consumer to a better retail plan.

The CDR aims to help consumers identify services and products that fit their needs. Through the transfer and use of consumer data, it aims to help consumers make informed decisions. It is relevant to this rule change to consider how information tools, energy bills and the CDR, can complement each other to maximise the benefits for consumers.

3.3.4

The differential impacts of digitalisation

A key issue that the Commission recognises and will consider in assessing this rule change is that small customers access and use technologies in different ways and to differing degrees. We are already seeing evidence that small customers' experiences of retail digitalisation differ. For example, market contract customers often prefer digital engagement options.³² Whilst 82% of residential customers are on market offers across the NEM³³ and a growing

31 Note these are indicative estimates because consumers may install smart meters without rooftop solar systems, and apartments with smart meters that cannot install rooftop solar systems will not be counted in the projections.

32 AEMC, *Retail Energy Competition Review*, June 2020.

33 AER Performance Reporting Q2 2019-20, Essential Services Commission VEMR 2018-19.

proportion of these customers are digitally engaged, many consumers on standard retail contracts do not have the same level of engagement.

Some customers are less digitally-engaged and some may prefer — or need — to get usage information each quarter on their bill. And, notwithstanding real-time apps, some customers are likely to still want their bills delivered to their post box.

The Commission recognises that any reforms to billing requirements must protect consumers that do not regularly access or use technology whilst allowing others (consumers and retailers) to seize the opportunities offered by digital innovation. In considering this rule change the Commission will seek to facilitate innovation while maintaining consumer protections.

3.3.5 **Associated reforms: a two-sided market**

The design of a two-sided market, which is part of the ESB's NEM 2025 package of reforms, recognises that digitalisation is changing the relationships between retailers, distribution companies and consumers. On 7 September 2020, the ESB released its Post 2025 Market Design Consultation Paper outlining the contributions that a two-sided market can make to both consumers and the energy system as a whole. The two-sided market work program is intended to facilitate new types of participation in the market, allow consumers to choose if and how they participate in the wholesale market, and establish a consumer protections framework that is fit-for-purpose for the evolving market.

The Commission considers it important to recognise the two-sided market work program as context for any determination that may result from this rule change. In particular:

- **Providing choice and enabling innovation** — smart meters, digitalisation, better data access and increasingly sophisticated energy management products and services provide opportunities for consumers to better manage their energy needs. This enables innovation and customer benefits. Importantly the two-sided market design will enable more active consumer participation in energy markets but will not require it; the choice is with the consumer.
- **Ensuring adequate consumer protections** — many energy consumers have limited means, ability or interest in actively participating in markets for energy products and services. The market design will need to provide appropriate protections for consumers whether or not they engage.
- **Providing incentives on third parties to partner with consumers** — the market will provide incentives for third parties to offer services to consumers that enable them to receive value for the flexibility of their demand or DER resources (that in turn helps third parties to balance their portfolios).³⁴

3.3.6 **The consequences of digitalisation for energy bills**

If the market continues to evolve as expected with consumers and retailers increasingly using digital means to exchange information it is likely that energy bills as they exist today will

³⁴ ESB, *Post 2025 Market Design Consultation Paper*, September 2020, p. 88.

become **less essential for digitally-engaged households and businesses**. Access to innovative phone applications, appliance management devices and automation will help householders and small business managers “make” energy usage decisions on a real-time basis. Combined with the CDR, retail market complexity is likely to be easier to navigate at key engagement and decision points (such as switching to a better energy plan).

Digitalisation may mean **some information currently required on bills becomes redundant** for many consumers. Easy access to more and more granular data, the automation of energy management and the CDR may render some (or all) of the current information on periodic energy bills obsolete. For consumers with real-time consumption data on an application, monthly average usage data on a periodic 'bill' may no longer be useful or needed. Information to help consumers understand the components of their bill may also be made simpler if presented in digital ways.

Given the market trends, it is timely to review the adequacy of current bills and the functional purpose of bills to determine the best ways for customers to get the information they need to manage their energy services. Helping consumers understand and look for a better retail offer is one example. The CDR is likely to streamline the process and ease by which consumers can switch retailers, potentially bypassing the bill as an information tool in the transaction.

In terms of how bills are delivered, increasingly we are seeing more consumers valuing digital interactions.³⁵ Bills are being delivered to consumers by email and via web portals rather than by post. This is due to the lower costs to retailers and consumer preferences. More fundamentally, digitalisation transforms how we think about the ‘issuing’ or ‘delivery’ of a periodic bill. Cumulative cost data, as well as usage, for a period may be available to a small customer at any time.

3.4 Materiality of the issues

The Commission is seeking feedback on the materiality of the issues identified by the proponent, namely whether there is difficulty understanding bills and a lack of consumer choice on how bills can be received. In particular, we welcome views on the materiality of billing issues for different groups of small customers, and how the impacts will change over time given digitalisation, key post-2025 reforms (two-sided market design) and the introduction of a CDR in energy.

3.4.1 Difficulty understanding bills

Which part of the bill do small customers find hard to understand?

Table 3.1 grouped the different components of bills into different functional purposes:

- pay the bill (e.g. information on how much is due, by when).

³⁵ Approximately, 97% of Click customer use online billing. [AGL enters binding agreement to acquire Click Energy Group](#), 31 August 2020.

- understand usage (e.g. recent and comparative usage information in a bill helps a small customer better understand the plan they are on, trends in their usage, other suitable plans in the market and/or whether to invest in solar or battery systems, and gives them a reference to an energy efficiency website)
- administrative (e.g. information in the bill helps a small customer identify themselves to energy providers and can be used for other identification and verification purposes)
- seek help (e.g. information on how to make a complaint, report a fault or get an interpreter)
- understand how the bill was calculated and check it complies with their plan/offer (e.g. information on tariff components, credits and the period of the bill).

The Commission is interested in stakeholder views on which aspects of the bill are hard to understand and why. Where possible, the Commission would like to hear stakeholders' views on which of the above functions are most impacted. For example, do consumers find it difficult to pay the bill or understand their usage?

Which households and small businesses are most impacted?

The Commission understands small customers have varying levels of market knowledge and capability to understand their bills and engage with the market. In responding to this consultation paper, stakeholders are encouraged to specify which groups of customers are most affected by the current format and presentation of bills.

Will changes to billing requirements improve consumer outcomes?

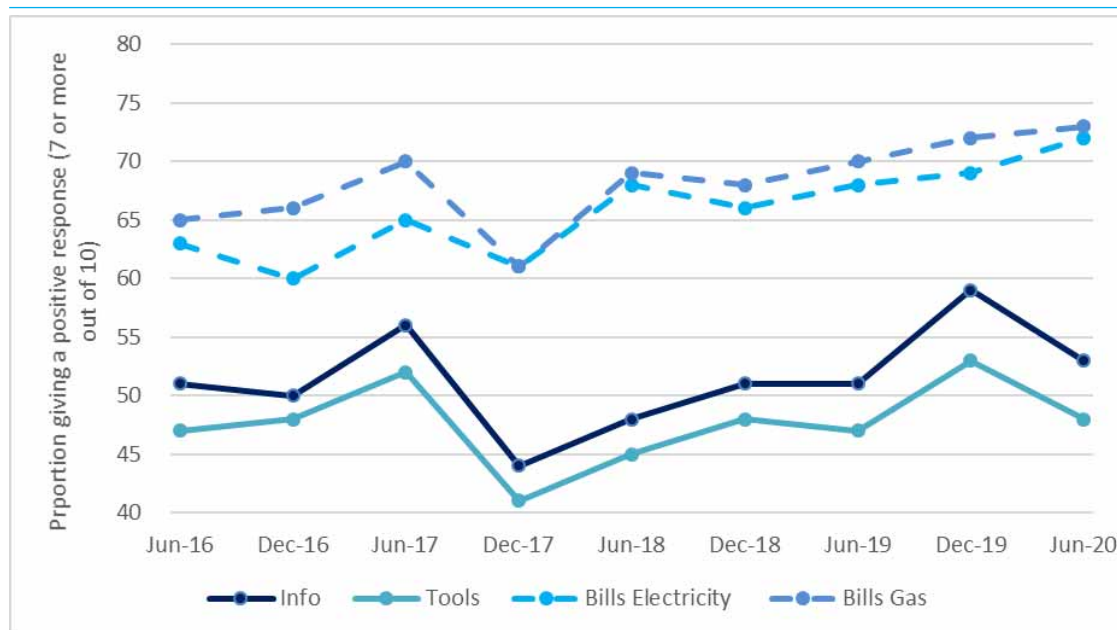
One outcome sought in the rule change request is **greater engagement with the retail market to get a better deal**. It is not clear if changes to the content and format of energy bills to make bills clearer will result in greater consumer engagement with the retail market. Recent research suggests that better bill comprehension is a necessary but not sufficient precondition for increased retail market engagement.³⁶ It found that complementary measures are needed to motivate consumers to seek out retail options in the market.

The Energy Consumers Australia's Energy Consumer Sentiment Surveys (ECSS), see Figure 3.3, show consumers' satisfaction with energy bills is higher than their satisfaction with other tools and information they have to make good energy decisions. This implies consumers do not have or are not aware of the tools and information they need to make decisions.

Therefore, the Commission is seeking feedback on whether changes in billing requirements alone will improve consumer outcomes, or whether other mechanisms will also be required or be more effective to help consumers get a better energy deal.

³⁶ Australian Government's Behavioural Economics Team (BETA), Electricity information to fit the bill, December 2018.

Figure 3.3: Consumers' satisfaction with information, tools and bills (2016 - 2020)



Source: Energy Consumer Australia, Consumer Sentiment surveys, June 2020.

3.4.2

Is there a need for requirements specifying how bills are issued or delivered?

The Commission is also seeking feedback on whether there is a need for requirements on all retail contracts regarding how a bill is issued or delivered to small customers.

The Commission recognises there are customers who prefer digital interactions, customers who prefer paper bills, and some customers who irrespective of preference do not have access to or an ability to use digital technologies. It is relevant to consider whether a paper bill is a safeguard that should always be made available for consumers on standard contracts or whether all customers should have a choice. The Commission is seeking feedback on how the rules, if a change is made, could address these differences in consumer preferences and continue to protect those customers who do not use digital technologies.

Currently, the rules only specify how a bill should be delivered for standard retail contracts (see section 3.1.2). Bills must be provided in writing for customers on standard retail contracts. In some jurisdictions for example in South Australia 'in writing' includes email. One concern raised in the rule change request with the current rules is that in the future some consumers may not be able to get a paper bill from their retailer, even if that is their preference. The Commission welcomes views on the impacts on small customers of the current rules approach.

QUESTION 3: MATERIALITY OF THE ISSUES

1. Which, if any, parts of a bill are confusing to customers, and how does any confusion affect a customer's ability to engage with the market to better manage their energy?
2. How do current billing arrangements meet or not meet customer requirements? Please specify whether your comments relate to all customers or specific segments of customers.
3. Do you have suggested improvements to billing arrangements that address any issues you consider are material? Please explain how your proposed solutions are compatible with the trend towards increasing digitalisation, the move to a two-sided market, and the introduction of the Consumer Data Right in energy.

3.5 Related projects and research

The Commission is seeking feedback on work programs and research findings relevant to this rule change request, including experiences from other comparable Australian sectors and the energy sector overseas. Key projects and research relevant to this rule change request that the Commission is already aware of and will consider are summarised below.

Post-2025 Market design (ESB, 2020)

In December 2019, the former Council of Australian Governments (COAG) Energy Council tasked the ESB with developing a market design for the NEM that delivers secure and reliable power at least cost to consumers, and accommodates the changes underway and expected in the future. One key ESB workstream is the development of a two-sided market.

The core idea of a two-sided market is for price and quantity inputs from both consumers (the demand side) and generators (the supply side) to inform the market outcomes — so that the quantity of energy produced is efficient and the price reflects customers' willingness to pay.

For individual consumers the choice will be to actively engage with the wholesale market, or to do so via their relationship with a retailer or other service provider. The choice on the level of engagement will be with the consumer.

In September 2020, the ESB published a consultation paper of the progress made on the post-2025 market design project, including the two-sided market workstream.³⁷

2020 Retail Energy Competition Review (AEMC)

On 30 June 2020, the AEMC published its review of consumer protections in the evolving energy market as part of the 2020 Retail Energy Competition Review. The Commission analysed different forms of regulation and their applicability to the energy market. The analysis found that the changing energy market is likely to require more diversity in

³⁷ ESB, [Post-2025 Market Design](#), Consultation paper, September 2020.

regulatory approaches, to strike the right balance between facilitating innovation and protecting consumers.³⁸ The Commission also noted that bill content requirements could become more principle-based to adapt to market changes and changes in how consumers access data and the bill itself.

The Commission outlined that it would consider in this rule change process whether:

- Bill content requirements for market contracts could be pared back to a principle-based rule, and additional specific requirements are needed under AER guidelines.
- Consumer usage information could be separated from bill contents to provide consumers with more frequent and greater access to their usage information through their preferred means (i.e. phone application, online account, text message, post).³⁹

Testing the comprehension of the reference price (ACCC and AER, 2020)

Joint research by the AER and Australian Competition and Consumer Commission (ACCC) on consumer comprehension of retail offers recommended using simple descriptive terms in energy advertisements, focusing on clear, simple language, and limiting efforts to improve comprehension to the most important concepts.⁴⁰ The research examined how consumers understand electricity offers and how the presentation of electricity offers could be improved.

⁴¹

"How digitalisation is changing the NEM" information paper (AEMC, 2019)

On 14 November 2019, the AEMC published an information paper outlining that digitalisation is changing the way consumers can and will engage in the electricity market. The paper outlined how consumers are already starting to benefit from increased digitalisation and proposed the sector should consider changes to the market framework in anticipation of digitalisation.⁴² The Commission noted greater digitalisation will facilitate more advanced engagement in energy markets among some consumers and elaborated on what a two-sided market is and the opportunity to move closer to this market design.⁴³

Electricity information to fit the bill (Commonwealth of Australia, 2018)

The Behavioural Economics Team (BETA) of the Australian Government found in 2018 that clear and accessible information improves consumers' confidence in making decisions in the electricity market but complementary measures may be required to prompt action to look for a better offer.⁴⁴ Specifically, even bills with a simplified design and with information on 'ways to save' (linked to Energy Made Easy) did not make an impact on consumers' intention to look into their options for switching plans in the next 12 months.⁴⁵

38 AEMC, [2020 Retail energy competition review](#), final report, 30 June 2020, p. ix.

39 AEMC, [2020 Retail energy competition review](#), final report, 30 June 2020, p. 231.

40 BIT, [Testing comprehension of the reference price](#), 26 June 2020.

41 The trial centred around communicating concepts associated with the Competition and Consumer (Industry Code-Electricity Retail) Regulation 2019.

42 AEMC, [How digitalisation is changing the NEM](#), The potential to move to a two-sided market, Information paper, 14 November 2019.

43 Ibid, p. 3.

44 BETA, [Electricity information to fit the bill](#), December 2018.

45 Only 2% of the participants clicked on the EME link.

Retail electricity pricing inquiry 2017-2018 (ACCC, 2018)

The 2018 ACCC's Retail Electricity Pricing Inquiry report found that the list of items required in energy bills in the rules should be reviewed to determine what information remains essential.⁴⁶ The ACCC analysed how energy bills could be made easier to understand. The research found that:

- the risks associated with giving retailers complete flexibility to deliver billing information to consumers significantly outweighs the benefits
- itemising energy costs (i.e. network costs, retailer costs, etc.) in an energy bill may not be understood by most consumers and could increase complexity without significant benefits
- including the relevant Ombudsman details was not required to improve awareness of these schemes.⁴⁷

QUESTION 4: RELATED PROJECTS AND RESEARCH

1. Are there other research findings or projects the Commission should consider in making its determination; what are the most relevant research conclusions and project linkages?
2. What key lessons should the Commission take from good practice regulatory frameworks for bills in comparable Australian sectors, or energy retail markets overseas?

⁴⁶ ACCC, [Restoring Electricity affordability and Australia's competitive advantage](#), Retail Electricity Pricing Inquiry, final report, 11 July 2018.

⁴⁷ Ibid, pp. 289, 290.

4 SOLUTIONS

This chapter describes potential solutions to the problems the rule change proposal is seeking to address.

The Commission is seeking feedback on whether stakeholders support the proposed solution or alternative solutions, and why. Feedback is required on the proposed solution with regard to: whether it addresses the problems and its causes; the benefits, challenges and risks associated with the proposed solution; and whether it will, or is likely to, contribute to the achievement of the national energy retail objective (NERO).⁴⁸

Feedback is also sought on alternative solutions, including:

- non-rules based regulatory approaches e.g. an industry code
- rules based approaches e.g. adding to the rule
- combinations of solutions (a modified proposed solution in combination with an alternate solution, for instance).

4.1 Proposed solution

The proponent recommends replacing the existing rule 25 of the NERR to require the development of an enforceable guideline. The mandatory guideline would be developed by the AER and "provide a single point of reference to industry on the required form, content and delivery of energy retail bills".⁴⁹

The proposal, summarised earlier in section 2, is to make rule 25 of the NERR principles or outcomes-based. The AER would have to have regard to an objective and principles set out in the NERR when prescribing the guideline's contents.

The proposed guideline objective is "to improve the experience of small customers in relation to billing for the retail supply of energy". The proposed principles are "to ensure small customers can: easily identify key information; easily verify how much energy they consume and how their bill is calculated; confidently query or dispute bills; and confidently navigate the market and seek the best offer".⁵⁰ The rules would also establish aspects of bills that the guideline could specify, including requirements as to the content and form of energy bills and the manner of issue of these bills.

It is proposed that breaches of the guideline would be subject to a civil penalty (established in the rules) to encourage retailer compliance.⁵¹

The rule change states that the proposed solution would promote the NERO and be in the long term interests of consumers, by improving consumer confidence and their capacity to participate in the market.

48 National Energy Retail Law (NERL), s. 236(1). The NERO is discussed in the following chapter "Assessment Framework".

49 Hon Angus Taylor MP, Minister for Energy and Emissions Reduction, Rule change request, Bill contents and billing requirements, 17 April 2020, p. 3.

50 Ibid, p. 6.

51 Ibid, p. 8.

The proponent identifies three areas of challenge to consider:

1. Short term transitional costs may be passed onto the consumers as retailers will be required to transition to new billing systems to comply with the guideline. However, long-term benefits are considered to outweigh these.
2. The ability of retailers to innovate may be limited by the requirement to develop transparent and consistent views. Developing the guideline must therefore consider how to allow for innovation when it is in the clear interest of consumers to do so.
3. Consumers may remain disengaged.⁵²

The Commission is also interested to hear views on the benefits and challenges of the proposed framework. For instance, the time needed for implementation, the relative ease and speed of modifying a guideline compared to the rules to accommodate market and technological changes, and the extent to which the framework is likely to deliver a more principles-based regulatory approach than the framework that is currently in place.

QUESTION 5: PROPOSED SOLUTION

1. To what extent would the proposed solution address the identified problems and their causes, and promote the NERO?
2. Do you consider the proponent's solution could be modified to be more effective? Please explain your view. Please explain the benefits, costs, risks and implementation issues associated with the proponent's solution.

4.2

Alternative solutions

4.2.1

Rules-based approaches

The Commission's 2020 Retail Competition review considered whether a combination of prescriptive and principles-based regulation could be used to develop a fit-for-purpose consumer protection framework that can accommodate new products and services, while also ensuring potential harms to consumers are minimised.⁵³

Consistent with this, there may be opportunities to adopt a more principles-based approach for certain billing functions while retaining rules prescription for others. For instance, an approach where the rules:

- require retailers to offer comparative usage data on bills to all small customers
- allow retailers to offer an opt-out option to consumers who are getting that data through other information tools.

The rules could include outcome based principles on bill formatting whilst setting out prescriptive requirements in other areas (e.g. bill payment and how to find help).

⁵² Hon Angus Taylor MP, Minister for Energy and Emissions Reduction, Rule change request, Bill contents and billing requirements, 17 April 2020, p. 10.

⁵³ AEMC, *Retail Energy Competition Review*, June 2020, Chapter 10, p. viii.

There may be other ways the rules could be amended to deliver clearer bills for customers and address concerns regarding how bills are delivered. The Victorian Energy Retail Code, that sets out the rules electricity and gas retailers must follow when selling energy to Victorian customers, serves as one example of a rule-based approach. Section 25 specifies the information that retailers must include on customers' bills, including the customer's address, meter number, applicable tariffs and charges, and average daily consumption during the billing period.⁵⁴ As of October 2018, the introduction of Division 4 in Part 2A, rule 70N to the Energy Retail Code, requires Victorian retailers to regularly display their 'best offer' on customers' bills, along with advice on how to access it.

Alternatively, certain content obligations on retailers could be removed from the rules to solve for information-dense bills. The telecommunications industry, the only industry with a national standard for bills, does not require the display of usage data on bills. Notably though, for many consumers, this information is available elsewhere.

BOX 1: PRINCIPLES-BASED REGULATION

Currently, the NECF has a high level of prescription. Prescriptive regulation sets out in detail how regulated businesses should behave. It outlines specific requirements to fit every business, assuming that these businesses have similar characteristics. It is generally a 'one size fits all' regulatory approach that is clear on how to comply with the rules by standardising processes and requirements amongst businesses.

Whilst there are circumstances where a prescriptive approach can target a market issue or a practice that may harm consumers, it is generally less flexible and businesses may simply follow what is specified in the rule rather than actually understanding the overall context or the desired outcome. This can lessen incentives on businesses to innovate and respond more effectively to customer needs.

By contrast, principles-based regulatory frameworks specify an expected regulatory outcome and let the parties subject to the framework determine how to achieve the outcome. It has a more universal application as it is less specific and can apply regardless of a businesses' specific characteristics. This approach is likely to be more effective when there is constant innovation, new products and services, and diverse market participants as it is more accommodating and adaptive to market developments. By providing flexibility and room for judgement in different circumstances, a principles-based approach can create less dependency on the rules and promotes a focus on outcomes.

Other factors to consider are the compliance risks that businesses face (there is potentially a trade-off between prescriptive regimes providing clearer obligations but also restricting the retailer's ability to respond to customer preferences), and the monitoring and compliance costs of the regulator in the different regimes.

Ultimately, whilst distinct, these two approaches are not mutually exclusive. Incorporating a

⁵⁴ Essential Services Commission, *Energy Retail Code (version 16)*, 1 July 2020, p. 33-34.

balance between a prescriptive approach within a well-established principles-based framework that focuses on the regulatory objective could combine the advantages of both.

Source: AEMC, *Retail Energy Competition Review*, June 2020, Chapter 10.

QUESTION 6: RULES-BASED APPROACH

Are there rules-based solutions that the Commission should consider (e.g. filling gaps in rules 25 and 170 of the NERR, a principles-based bill format provision, or using opt-out provisions for information pertaining to certain bill functions)? Please explain (i.e. benefits, costs and risks).

4.2.2

Non-rules based approaches

Industry collaboration, initiatives, non-binding guidelines and education programs are all non-rules based measures that could be implemented to address issues related to bill confusion and consumer choice in how they receive their bills. These could complement or avoid the need for changes to the NERR. The significant increase in financial hardship due to COVID-19 has reemphasised to the industry the need to help customers meet their financial commitments. This has delivered new, industry-driven responses to consumers' need for assistance, such as fact-sheets and outreach programs, and signalled the potential for non-rules based approaches to improve the consumer experience of the energy sector as a whole.

Industry code

Industry bodies could develop an industry code, that could form the basis of a formally registered code (either voluntary or mandatory) covering energy bills' content, format and delivery. For example, the telecommunications and banking sectors in Australia have developed co-regulatory frameworks where associations representing the industry develop an industry code via a consultation process with stakeholders, and public agencies and bodies. In the energy sector, issues would need to be resolved including how an industry code for billing would be implemented and enforced and how it would be consistent with and exist alongside the NERR. An industry code could be authorised and enforced by the ACCC under the Australian Consumer Law (ACL) framework.⁵⁵ The Commission is seeking feedback on the extent to which stakeholders consider an industry code would be a useful mechanism to include additional billing requirements (above those in the rules), and the process for establishing and managing an industry code.

Non-binding AER guidelines

Another option could be for the AER to publish non-binding guidelines that retailers could follow to help consumers understand their bills. Drawing on research findings, for instance, a

⁵⁵ Competition and Consumer Act 2010, Part VII and IVB.

guideline could give examples of clear and simple language and how to draw focus to the most important concepts.

The Commission is seeking stakeholder feedback on the extent to which non-rules based solutions would either alter or obviate the need for changes to the NERR to address the issues of bill confusion and clarity regarding consumer bill delivery.

Other voluntary industry initiatives

Industry participants have sound knowledge of the market and their consumers and are therefore well-placed to improve the consumer experience. More broadly, sector initiatives are already in place to improve the delivery of energy services, such as The Energy Charter, with public disclosure by signatories of delivery against the charter. The recent "We've got you" fact sheets, in community languages, aim to support people and businesses impacted by COVID-19.⁵⁶ Industry bodies could develop guidance for householders and small business owners on the terminology used in their bills, and explore other ways to help consumers understand their bills. Helping consumers understand their bills is an area where voluntary industry initiatives could complement regulation.

The Commission welcomes stakeholder consideration of the effectiveness of rules-based or non-rules-based alternative solutions.

QUESTION 7: NON-RULES BASED APPROACH

Are there non-rules based approaches — such as an industry code, a non-binding guideline or other industry initiatives — that the Commission should consider to address the issues raised by the proponent and their causes? Please explain (i.e. benefits, costs and risks).

4.2.3

Hybrid approaches

A solution does not have to be exclusively rules or non-rules based. The rules can be complemented with non-rules based approaches. The Commission welcomes feedback on hybrid solutions that could effectively deliver information covering the functional aspects of bills (see sections 3.1.1 and 3.2.1), and address concerns regarding how consumers receive bills.

QUESTION 8: HYBRID APPROACH

Are there hybrid approaches — a suite of rules and non-rules approaches — that the Commission should consider to address the issues raised by the proponent and their causes? Please explain (i.e. benefits, costs, risks, and balance between principles-based and prescription and rules/non-rules)?

⁵⁶ The Energy Charter, *Worried about your energy bills or keeping your lights and heating on? We've got you.*

5 ASSESSMENT FRAMEWORK

The Commission's assessment of this rule change request must consider whether the proposed rule will, or is likely to, contribute to the achievement of the national energy retail objective (NERO), as set out in s. 236(1) of the National Energy Retail Law (NERL). This chapter sets out the requirements under the NERL that the Commission must apply in considering the rule change request, and details the proposed approach for assessing the rule change request. Stakeholders are encouraged to comment on the assessment framework.

5.1 Achieving the NERO

As this rule change request relates to aspects of the NERR, the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the NERO.⁵⁷

The NERO is:⁵⁸

to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.

The Commission must also, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the "consumer protections test").⁵⁹

Where the consumer protections test is relevant in the making of a rule, the Commission must be satisfied that both the NERO test and the consumer protections test have been met.⁶⁰ If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made.

There may be some overlap in the application of the two tests. For example, a rule that provides a new protection for small customers may also, but will not necessarily, promote the NERO.

5.2 Making a more preferable rule

Under s. 244 of NERL, the Commission may make a rule that is different (including materially different) to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule will, or is likely to, better contribute to the achievement of the NERO.

57 Section 236(1) of the NERL.

58 Section 13 of the NERL.

59 Section 236(2)(b) of the NERL.

60 That is, the legal tests set out in s. 236(1) and (2)(b) of the NERL.

5.3 Proposed assessment framework

To determine whether the proposed rule will, or is likely to, contribute to the achievement of the NERO, and is compatible with the consumer protections test, the Commission proposes the following criteria to guide its assessment of the rule change request:

- **Transparency of information** — a well functioning retail market requires customers to have adequate, clear and timely information about the service they are buying and the price they are paying for that service. The Commission will consider the extent to which the rule change is likely to improve, through better information provision, consumers' understanding of their energy bills, which in turn may help them better manage their energy costs.
- **Consumer engagement, choice and participation** — all consumers should have the opportunity to make informed decisions and choices about electricity, gas or retail services. The Commission will consider the benefits of the rule in promoting consumer engagement, choice and participation in the market; immediately and into the long-term. These will include the benefits of fostering efficient investment and operational decisions over time.
- **Regulatory and administrative burden** — altering what retailers must put on energy bills, and introducing new requirements (e.g. particular delivery modes), may impose immediate and ongoing costs on retailers (e.g. changes to their billing systems and/or paper bill delivery costs). Also, requiring the AER to develop, monitor and keep up to date a mandatory guideline would impose new costs on the AER. The Commission will consider the regulatory and administrative benefits and costs associated with the rule change proposal.

QUESTION 9: ASSESSMENT FRAMEWORK

Is the proposed assessment framework appropriate for considering the rule change request?
Are there other considerations that should be included?

6 LODGING A SUBMISSION

Written submissions on the rule change request must be lodged with Commission by **22 October 2020**, online via the Commission's website, www.aemc.gov.au, using the "lodge a submission" function and selecting the project reference code RRC0036.

The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated.

Where practicable, submissions should be prepared in accordance with the Commission's guidelines for making written submissions on rule change requests.⁶¹ The Commission publishes all submissions on its website, subject to a claim of confidentiality.

All enquiries on this project should be addressed to Stephanie Flechas on (02) 82960640 or stephanie.flechas@aemc.gov.au.

⁶¹ This guideline is available on the Commission's website www.aemc.gov.au.

ABBREVIATIONS

ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	See AEMC
CDR	Consumer Data Right
COAG	Council of Australian Governments
DER	Distributed Energy Resources
ECSS	Energy Consumer Sentiment Surveys
EME	Energy Made Easy
ESB	Energy Security Board
ESC	Essential Services Commission
NECF	National Energy Customer Framework
NEM	National Energy Market
NERL	National Energy Retail Law
NERO	National Energy Retail Objective
NERR	National Energy Retail Rules
VDO	Victorian Default Offer