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RESPONSE TO CONSULTATION ON BETTER BILLS

Thank you for the opportunity to respond to the Australian Energy Regulator's (AER) request for stakeholder feedback on better bill design.

This submission suggests the BETA research invites deeper thinking about the challenges and opportunities for redesigning the regulatory approach to billing. The submission concludes with four recommendations.

Given the matters covered by this review, I would be delighted to facilitate introductions to my colleagues in the Monash Business School, the Monash Energy Institute and the Monash Sustainable Development Institute (including BehaviourWorks).

The views expressed in this submission are those of the author and not the faculty or its staff.

There is no information in this submission subject of a confidentiality claim.

Yours sincerely

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The Australian Energy Market Commission (AEMC) made a new rule in March 2021 requiring the Australian Energy Regulator (AER) to make a new guideline addressing billing information provided by electricity and gas retailers.¹

On 2 September, the AER invited stakeholder feedback on the content and design of energy bills. At the same time, the AER released a number of research reports it had commissioned. Most prominently, the research included an interim report from the Behavioural Economics Team of the Australian Government (BETA).²

The questions in the AER's consultation paper, largely pertain to three elements:³

- Content – What material should be presented on a bill?
- Design – How should material be presented on a bill?
- Regulation – How should the AER regulate bill content and design?

For the most part this submission focusses on the first and third of these matters.

(Note, this submission only addresses information requirements in the normal course of billing. Alternative information may be required in the event of accrued arrears and any special payment arrangements that may have been put in place.)

1. What's the problem that needs fixing?

Although the AER's review is presented under the banner of "Better bills" as the objective, it does not provide a discussion about the meaning of 'better'. Instead, the material on the AER's website and in its consultation paper, largely focusses on producing simpler or simplified energy bills. The reasons given for pursuing simpler bills variously include:

- addressing the "current key problems with energy bills"
- making them "easier for consumers to understand and use"
- enabling households and small businesses to:
 - "more easily manage their energy usage and costs"

¹ National Energy Retail Amendment (Bill contents and billing requirements) Rule 2021 No.2

² <https://behaviouraleconomics.pmc.gov.au/sites/default/files/projects/aer-better-bills-report-final.pdf>

³ https://www.aer.gov.au/system/files/Developing%20the%20Better%20Bills%20Guideline%20-%20Consultation%20Questions%2812672268.5%29_0.pdf

- “find the best energy deal”
- meeting “the needs of consumers, now and into the future”

At the same time, the AER also appears interested in examining opportunities to simplify the regulatory framework (for billing and related matters) in ways that:

- “encourage effective competition and reduce cost to serve”
- “minimises cost and enables industry innovation”

From these statements, it would appear the AER has three objectives in conducting this review. These include:

1. helping customers to manage their bills
2. promoting greater competition
3. minimising compliance costs for retailers

It would appear the first of these objectives is assumed to be met by providing consumers with simpler information that supports them making ‘better’ decisions about how they use energy. The second objective is assumed to be met by providing information that supports customers shopping around (and enabling retailers to offer innovative deals). The third objective is assumed to be met by reducing regulatory prescription.

Of course, the second and third of these objectives are intermediate in the sense that they only benefit customers if they subsequently lead to retailers making offers that (i) better match consumer preferences, and (ii) pass on lower costs to consumers.

2. Minimum information requirements

Minimum information requirements for energy bills are defined by a combination of common sense and the AEMC’s requirement that the guidelines “take into account ... the need for consumer protections”.⁴ These protections draw from the special status of electricity and gas supply as essential services.

The minimum information requirement can therefore be assumed to include:

- details of the required payment – amount and due date
- available payment methods – credit/debit cards, B-pay, etc

⁴ Clause 4(a)(i). Also see clause 5(b)

- how to access assistance – in the event of (i) payment concerns⁵, (ii) language barriers, (iii) disputed matters⁶, and (iv) supply problems⁷.

These common-sense information requirements have negligible (or no) bearing on the AER's three objectives as described above. In other words, even before attending to its own objectives, the AER must impose a significant information load on customers' energy bills.

Beyond these common-sense information requirements, the rule made by the AEMC also requires the bill provide information about:

- how the bill is calculated and whether it conforms to the customer's retail contract⁸
- the customer's energy consumption and production, and related costs and revenue⁹

Unlike the 'common sense' requirements, these latter informational requirements may be relevant to, at least, the first two of the AER's three objectives.

3. BETA interim research findings

The BETA research makes a number of important observations. The most remarkable feature of this work is just how unremarkable the findings have proven to be.

Based on its literature review, BETA began with three working hypotheses. These are:¹⁰

- complex bills are confusing for energy consumers
- consumers can be engaged on energy efficiency by providing them with information about their energy usage, and
- making bills easier to compare is a crucial step in encouraging switching.

BETA observes the main purpose consumers ascribe to their bill is simply knowing how much to pay. Other purposes may include:

- knowing how the bill was calculated

⁵ These concerns may not necessarily be limited to financial difficulty. It may also include, for example, assistance required by a customer facing domestic violence (eg. additional protection of payment details such as the customer's address or bank account details).

⁶ Including access to internal and external dispute resolution mechanisms.

⁷ The relevant distribution network service provider.

⁸ Clause 3(b)

⁹ Clause 3(c)

¹⁰ BETA slide 5

- identifying how much energy they have used
- accessing information about the details of their energy plan, and
- knowing who to call about different concerns.

When asked about whether they value particular types of information on their bills, consumers were overwhelmingly interested in being given that information. Broadly speaking, 70 per cent valued being given the different types of information, 20 per cent were neutral and less than 10 per cent disagreed with being given the information.

BETA tested four different bill formats. Its main findings include:

- bill design made little difference to respondent's ability to find relevant information, understand how their bill was calculated, or comprehend the payment information
- the shorter bill format performed no better than the others
- including plain English definitions for technical terms did not improve comprehension
- alternative designs showing how the bill was calculated made no difference to bill comprehension, and
- format made little difference to the value of information about: household-size benchmarks, energy usage and solar exports.

More positive findings included:

- simple plan summaries helped customers to better understand how their bill was calculated

In terms of the AER's three objectives, BETA found:

- simple plan summaries did not improve respondents' ability to identify better offers
- adding the retailer's best offer to the bill increased respondents' stated intention to switch plans from 5-7 per cent to 12-16 per cent, and
- respondents said they were more likely to shop around if they saw a reference price on the bill – but fewer would shop around if their bill was already below the reference price.

BETA caveats its findings with the following important observations:¹¹

- "The survey environment is different from the real-world setting... Consequently, the findings from survey experiments will only generalise imperfectly into the real world."

¹¹ BETA slide 38

- “comprehension and intentions alone do not necessarily lead to action... Nonetheless, intentions are a necessary precursor to action...”

Importantly, BETA observes:^{12,13}

“a bill that incorporates sound design principles can vary (within a reasonable range) in terms of content and length without compromising comprehension and causing information overload.”

While BETA does not revisit its working hypotheses after reporting the results of its survey, we can surmise that the survey results offer nothing particularly confirmatory in relation to these hypotheses – provided the bill “incorporates sound design principles”.

4. What are we to make of the BETA findings?

While the results of the BETA research are unremarkable, they are nonetheless insightful. BETA’s findings lead to questions about whether broader thinking is required as the AER considers the best regulatory approach to billing. This section makes four observations about energy bills.

4.1 *Information is most valuable when it is wanted*

Chief among BETA’s findings is that when consumers are interested in an aspect of their bill, they can generally find that information with relative ease – however, the mere provision of information does not otherwise pique consumers’ interest in that information. While the AER (and AEMC) may wish bills to be a vehicle for promoting greater competitive tensions by stimulating consumer interest in energy, consumers typically see a bill as little more than an invoice to be paid.

Although the BETA research suggests providing some comparative information on a bill (eg. best offer information or reference price) may stimulate some market interest, the prompt is generally weak. As BETA notes, to the extent the prompt serves to trigger a response, it has only been to raise an intention by consumers. Whether consumers act on that intention, or whether they would repeatedly respond to that prompt, lies beyond the capacity of a survey to assess.

¹² BETA slide 20

¹³ While this comment was made in the context of BETA’s discussion on the length of a bill, it would appear to hold as a more general observation.

In this regard, Victoria's experience may be instructive. Following an independent review into the Victorian retail energy market,¹⁴ the Victorian government requested the Essential Services Commission (ESC) consider amending the Energy Retail Code to require retailers to put information about their best offer on customer bills. Since 1 July 2019, energy retailers must display a message on the bill stating whether the customer is on the retailer's best energy offer. Retailers must display best offer information on a customer's bill at least every three months for electricity and every four months for gas.

In its recent market update, the ESC reported that between July and December 2020 half of electricity customers were receiving such messages on their bills.¹⁵ Large retailers reported the highest incidence of such messages (around 55 per cent) while medium size retailers were publishing these messages on about 40 per cent of their bills. Small retailers typically provided messages on less than 10 per cent of their bills. In other words, the proportion of customers who were on a retailer's best offer was lowest for large retailers.

By March 2021, the overall figure had increased to around 75 per cent with large, medium and small retailers reporting incidences of around 80, 60 and 25 per cent, respectively. This increase is probably explained by reductions in wholesale prices leading to retailers introducing new, lower market offers earlier in 2021.

These circumstances provide an opportune natural experiment.

The AER should monitor what happens over coming months in the Victorian retail energy market after this 'shock' – that is, whether the reported rates decrease over coming months. This will, at least to some extent, reveal whether best offer information prompts consumers to pursue bill savings when they suddenly materialise.

It might be argued that there is no harm caused by adding competition-promoting information on bills such as best offers or reference pricing. This argument would be wrong for at least two reasons.

First, it adds clutter to the bill.

Second, and far more consequentially, information often flows in two directions. While best offers and reference pricing tell consumers about potential savings they could realise, it also reveals to retailers the extent to which consumers are indifferent to those potential savings. Stating this more bluntly, it provides retailers accurate insight into the rents they can extract from individual customers and different categories of customers (remembering retailers

¹⁴ Thwaites, J, Mulder, T and Faulkner, P. (2017) *Independent and Bipartisan Review of the Electricity and Gas Retail Markets in Victoria*, August

¹⁵ Essential Services Commission 2021, *Victorian energy market update: June 2021*, 29 June, p.9

actively profile their customers). Supporting the extraction of these rents is antithetical to the AER's objective of promoting competition.

To be clear, this form of price differentiation is not equivalent to the price discrimination described in microeconomic textbooks. It is not welfare enhancing.¹⁶

The relevance and consequences of adding (or removing) information to a bill are not always as straight forward as they seem. As the BETA research demonstrates, comprehension is not greatly affected by presentation as long as the bill follows sound design principles. It also demonstrates that comprehension and interest are two very different things. Where interest already exists, comprehension follows – but comprehensibility does not, of its own, lead to interest. And, of course, interest cannot be assumed to lead to action.

In designing any further research, the AER and BETA should consider carefully the reasons for the observed weaknesses in the nexi between comprehensibility, interest and action. The underlying causes for these weak nexi are briefly described in the following section.

4.2 Retail energy markets are not the same as other markets

Full retail competition (FRC) was introduced in the national electricity and gas markets on the basis of some high-level and simplistic assumptions about consumers and how the retail energy market would operate. These included standard assumptions about markets such as:

- Consumers would actively shop around for better energy deals.
- Retailers would actively compete by developing new products to meet consumer preferences.
- Competition would see retailers' costs and margins reduced to their efficient levels.

Between 2007 and 2017, review after review by the AEMC (and other regulatory bodies) of the competitiveness of the retail energy market found scarce evidence in support of these assumptions. For the most part, these reviews explained away these findings as transitional in nature— to be remedied by providing better information (eg. product disclosure), improving consumer education, and lowering transaction costs (by publicising government funded comparator sites). In effect, consumers were being 'blamed' for the non-realisation of the assumptions upon which FRC was predicated.

¹⁶ For further discussion, see: Ben-David, Ron (2018) *Competition, Neo-paternalism and the Nonsumer uprising*. Consumer Law Conference, May, pp.25-26

The independent review in Victoria and a separate review by the ACCC¹⁷ in 2017 and 2018, found the shortcomings in the retail energy market were persistent and could not be dismissed as transitional in nature. There were deeper reasons for the assumptions listed above not being realised.

Before proceeding with further research, the AER and BETA should consider the factors that distinguish the retail energy market from other consumer markets – and how these factors might (or might not) influence the design of energy bills. Some of the main factors include:

- Electricity and gas are **involuntary** purchases. They are not made freely in the same way that purchases of, say, clothes are made. Consumers do not have the option of exercising the ultimate sanction of withdrawing their custom from the market, even temporarily.
- The consumption of electricity and gas is largely **inelastic**. For any given set of appliances (including solar panels), consumer demand is largely invariant to the price of electricity or gas.
- The quality of electrical current and gas molecules is **homogeneous** and totally unrelated to the choice of retailer providing the service.
- There is a profound temporal **disjunction** between the decision to enter an energy plan, the consumption of energy under that plan, and the payment for that energy in accordance with the plan.
- The essential nature of energy leads consumers to believe, and act as though, it comes as of right (albeit at a price) and therefore the responsibility for attaining a **fair and reasonable** outcome does not rest solely with them.¹⁸

It must also be remembered that contestability and competition are not the same. Contestability does not guarantee a competitive outcome – that is, contestability does not guarantee an even-handed, two-sided process of discovery. Contestability that falls short of genuine competition will only reveal consumers' willingness to shop around. Such an outcome tilts the playing field in favour of retailers.

Retail energy markets are clearly contestable. As the aforementioned reviews demonstrated, they cannot be assumed to be genuinely competitive.

¹⁷ Australian Competition and Consumer Commission (2018), *Restoring electricity affordability and Australia's competitive advantage, Retail Electricity Pricing Inquiry - Final Report*, June

¹⁸ Analysis commissioned by Energy Consumers Australia (ECA) shows that consumers are not particularly interested in engaging with energy-related decisions. Because electricity is an essential service, consumers view its reliability, sustainability and price as the responsibility of governments, rather than themselves. See: <https://energyconsumersaustralia.com.au/wp-content/uploads/1D-ECA-Future-Energy-Vision-Research-Forethought-Household-Presentation.pdf>

Behavioural experiments and regulatory interventions need to be designed accounting for the special characteristics of retail energy markets. Failing to do so, and assuming energy consumers and retailers behave on the same terms as, say, clothing consumers and retailers, will again lead to overly simplistic conclusions about the regulation of retail energy markets – or in this case, energy bills.

4.3 Retail energy markets are changing, so let consumers decide

These days much is said and written about distributed energy resources, microgrids, virtual power plants, dynamic operating envelopes, time of use tariffs, dynamic tariffs, demand side management, peer-to-peer trading, two-sided markets, and so on.

It is still too early to know which, if any, of these potentialities will move from their current 'R&D' stage through to full commercialisation or universal roll-out. What is clear, however, is that each will come with its own informational requirements. It is quite likely that in any of these potential scenarios, an energy bill will be less like a traditional invoice and more like a statement of reconciliation, potentially reporting across multiple contractual dimensions.

Of course, it would be a brave regulator that thought it could prescribe informational requirements for services that do not yet exist (at least not at scale). What is possible today, however, is the opportunity for the AER to begin creating an environment in which it does not need to prescribe the solution.

The advent of very low cost online billing opens boundless opportunities for consumers to design their own bills. Retailers or other future service providers will hold all the relevant information. The only questions are: How much of that information do customers want and in what form. Even in today's much simpler retail energy market there are numerous options a customer might be given. Just a few examples might include:

- On your bill, do you want to see how much energy you used in previous months? If so, how many months of data would you like to see?
- On your electricity bill, do you want to see how much electricity you exported and how much you consumed at different times of day?
- On your electricity bill, do you want to see an estimate of how much electricity you were prevented from exporting to the grid?
- On your bill, do you want to see the estimated greenhouse gas emissions associated with your energy consumption?
- On your bill, do you want to see how much you could have saved if you had been on one of our other offers?

Having ticked the boxes of interest, an online billing system could simply ‘drop’ the requested information into that customers bill. While such optionality is conceivable for printed bills, the cost maybe prohibitive. Paper bills may therefore still need to be subject to a greater level of prescription – including a requirement to tell customers about the optionality available with online bills.

It goes without saying that retailers will complain endlessly about the costs and complexity, and time required to provide such customers with billing optionality. The AER should call out such drivel by engaging a few entrepreneurial teenagers to just develop the software.

The point is this.

Today, the information content of energy bills is a relatively straight forward proposition. In the future that may no longer be true. It’s time to get started on thinking more creatively about how to solve the problem of information content in a more innovative way than simply prescribing it.

4.4 The obvious question no-one seems to have asked...

Despite the comments provided in the preceding sections there would appear to be one significant omission in the AER’s analysis supporting better bills – namely: What do consumers think about current bill content and presentation?

According to the AER, there are 45 separately branded retailers operating across the national energy market.¹⁹ Not all retailers operate across all jurisdictions and not all retailers offer electricity and gas contracts. Nonetheless, they all issue bills.

It could prove insightful for the AER to convene a consumer panel (or multiple panels) to review existing bills to identify which of those bills best satisfy customers’ needs and expectations. These insights would complement the work already done by BETA (as well as Hall & Partners and the Ethnic Communities Council of NSW) which relied on stylised bills produced by the AER (or BETA?).

Depending on the level of prescription on which it finally settles, the AER might want to consider convening such panels on, say, a bi-annual basis to judge retailers’ bills – potentially awarding prizes for the ‘best’ bills, as found by consumers.

¹⁹ AER (2021) *State of the Energy Market 2021*. Table 6.1, p.245

5. Conclusions & Recommendations

Debates over bill content and bill design have raged ever since the energy market was liberalised in the late 1990s and early 2000s. At a micro level, each piece of information appears important but when viewed *in toto* the value of all this content is less clear.

This submission suggests the AER should exercise caution before pursuing bills as a mechanism for modifying consumer behaviour. Fortunately, it has a live experiment underway in Victoria which may prove instructive.

Recommendation 1

The AER should monitor what happens over coming months in the Victorian retail energy market and whether 'best offer' information on an electricity bill appears to motivate a consumer response.

The design and regulation of retail energy markets has been largely predicated on an assumption that retail energy markets can be viewed in much the same terms as other consumer markets. This has proven detrimental to energy consumers.

Recommendation 2

Behavioural experiments and regulatory interventions need to be designed in ways that take into account the special characteristics of retail energy markets.

The billing information that has prevailed in the past may become less and less relevant to a growing percentage of consumers in the years ahead. In pursuing billing reforms, the AER should establish a regulatory framework that promotes billing practices that are responsive to customer needs. Now is the time to implement such reforms – that is, before consumers' billing requirements become increasingly varied and complex.

Recommendation 3

The AER should look to develop a regulatory framework that requires bill content and design to be responsive to the needs of individual consumers.

There are currently 45 retailers issuing bills to energy consumers. Having consumers assess the efficacy of those bills may provide useful insights into future bill design.

Recommendation 4

The AER should consider convening a consumer panel (or multiple panels) to review existing bills to identify which of those bills best satisfy customers' needs and expectations.



About the author

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Between 2008 and 2019, he served as full-time chair of the Essential Service Commission (Vic) where he led far-reaching reforms in many areas of regulation administered by the commission. Prior to his appointment to the commission, Ron was Deputy Secretary in the Department of Premier and Cabinet (Vic) and headed the secretariat for the Garnaut Climate Change Review.

Ron is a board member for the Climate Works Australia, the Consumer Policy and Research Centre, and the Regulatory Policy Institute (A-NZ). He is an advisory board member for the Centre for Market Design and Customer Stewardship Australia. Ron is a member of the Consumer Reference Group for the Australian Energy Regulator.