

**Public
Interest
Advocacy
Centre**



Joint submission to the AEMC Electricity Consumption Benchmarks Consultation Paper

20 July 2023

About the Australian Council of Social Service

The Australian Council of Social Service is a national advocate supporting people affected by poverty, disadvantage and inequality, and the peak council for community services nationally.

About the South Australian Council of Social Service

The South Australian Council of Social Service is the peak representative body for the non-government, not-for-profit health and community services sector in South Australia. SACOSS' purpose is to influence public policy in a way that promotes fair and just access to the goods and services required to live a decent life. We undertake policy and advocacy work in areas that specifically affect disadvantaged and low-income people in South Australia. SACOSS has a long-standing interest in the delivery of essential services - our research shows the cost of basic necessities like water and electricity impacts greatly and disproportionately on people experiencing vulnerability and disadvantage.

About the Victorian Council of Social Service

VCOSS is the peak body for Victoria's social and community sector. We work for a Victoria free from poverty, with genuine wellbeing for all.

About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program works for better regulatory and policy outcomes so people's needs are met by clean, resilient and efficient energy and water systems. We ensure consumer protections and assistance limit disadvantage, and people can make meaningful choices in effective markets without experiencing detriment if they cannot participate. PIAC receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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Public Interest Advocacy Centre



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The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

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Recommendation 1

Conduct a review into the Better Billing Guidelines after at least four billing cycles, or one year from September 2023. The Review should include specific testing of consumer responses to the removal of benchmarks from bills.

Recommendation 2

The AEMC reject the existing rule change to remove the AERs obligation to develop and update electricity consumption benchmarks. And instead make a more preferable rule to require the AER to, in consultation, redesign the methodology of benchmarking data collection and publication to increase its utility for consumers, regulators and policy-makers. This could include more data points such as dwelling type, ownership status, household fuel sources, efficiency of appliances and could ensure that benchmarks are communicated alongside appropriate explanations on the use and limitations of the data.

1. Introduction

The Public Interest and Advocacy Centre (PIAC), Australian Council of Social Services (ACOSS), Victorian Council of Social Services (VCOSS), South Australia Conservation Council (SACOSS) welcome the opportunity to respond to the Australian Energy Market Commission's Electricity Consumption Benchmark Consultation Paper.

We do not support the proposed rule change to remove the AERs obligation to develop and update electricity consumption benchmarks and request that the AEMC make a more preferable rule.

The AER should continue to develop and update electricity consumption benchmarks (benchmarks), which continue to be of value to consumers, regulators and policymakers regardless of whether they are displayed on bills. We recommend the rule change request be rejected and instead benchmarking data collection and publication be redesigned to address any potential issues of consumer utility.

Our submission responds to the assessment criteria put forward by the AEMC focusing on outcomes for consumers, implementation and principles of good regulatory practice.

2. Outcomes for consumers

2.1 Removal of benchmarks from bills

The rule change proposal is predicated on the removal of benchmarks from bills as part of the Better Billing Guidelines (BBG) to be implemented from September 2023. The decision to remove benchmarks from bills was made in the later stages of the BBG process. Consumer stakeholders were not given adequate opportunity to respond to the decision. As the AEMC Draft Rule did not include removing benchmarks consumer stakeholders did not directly address this possibility in their submissions. The AEMC final determination removed the requirement, with the caveat that the AER could still include benchmarks in the guideline if it chose to.

*"Removes the obligations on retailers regarding electricity consumption benchmarks in rule 170 of the NERR, which the AER may include in the billing guideline"*¹.

In their submission to the Draft Determination, the AER flagged that 'the utility of bill benchmarks will be considered as part of its research to develop the billing guideline'². However, there was not adequate justification for removing benchmarks from bills during the BBG process, nor has it been sufficiently addressed in the rule change proposal from the AER.

Consumer stakeholders did not support benchmarks being taken off bills. The AER's claim that benchmarks are not an appropriate reference point for many consumers appears to be based on claims drawn from submissions from electricity retailers to the BBG process. Consumer

¹ Our emphasis. AEMC Rule Determination Bill Contents and Billing Requirements 2021 <https://www.aemc.gov.au/rule-changes/bill-contents-and-billing-requirements>

² AER Submission to the AEMC National Energy Retail Amendment (Bill contents and billing requirements) Rule. P.2 https://www.aemc.gov.au/sites/default/files/documents/rule_change_submission_-_rrc0036_-_aer_-_20210205_0.pdf

stakeholders and the AER's own BETA research provided strong evidence that consumers do value benchmarks and support them being displayed on bills.

Evidence from Ombudsmen that benchmarks can result in consumer confusion and complaints have not been adequately weighed against the demonstrate value many consumers see in benchmarks. The AER should consider how these complaints could be alleviated by redesigning benchmarks, so they are more consistently useful and clear to consumers, rather than removing valuable consumer information.

2.1.1 Our comments on benchmarks in the BBG process

Despite the BBG process not addressing the possibility of benchmarks being removed from bills, consumer stakeholders did support the utility of benchmarks.

In response to the AEMC consultation paper, PIAC wrote:

Information explaining usage, ideally in simple pictorial or graphic format, showing usage both for this period and compared to relevant periods or benchmarks. Greenhouse emissions should also be part of this information³.

In response to the AER Consultation paper PIAC wrote:

A significant majority of people in the BETA Report would like to have best offer, reference price, plan summaries and benchmark information included in their bills.

... This indicates consumers are looking for a range of information on their bills to make sure they are being charged the correct amount and that this amount is a reasonable amount. This information might not be used immediately on receipt of a bill, but it needs to be available to access when it is needed.

...We note that BETA's 'literature review found mixed evidence on the effectiveness of benchmarks on energy bills.'¹⁸ There is some concern people might increase their energy use as a result of the table, although this seems unlikely given it would result in increased bills. **In addition, increased energy usage is not necessarily negative, as some energy consumers ration their energy use to unhealthy levels.** In the past, retailers and ombudsman services have expressed concern about benchmark comparisons saying that they receive a lot of complaints that people believe that their usage is higher than it should be. However, the BETA Report, found that where the benchmark comparisons indicated higher than average usage, respondents were more likely to attribute an expensive bill to high usage rather than an expensive plan or a mistake and that 72% of respondents would find the benchmark comparison information helpful.¹⁹ We contend that the benchmark comparisons are an important tool for consumers to understand their usage, but they should be accompanied by information about the limitations of the comparison and where a consumer can access information about using energy wisely to help them address any concerns.

³ PIAC submission to AEMC Consultation Paper National Energy Retail Amendment (Bill Contents and Billing Requirements) Rule, p.9 https://www.aemc.gov.au/sites/default/files/documents/rule_change_submission_-_rrc0036_-_piac_-_20201021.pdf

The above sentence in bold was misunderstood and/or misquoted by the AER who cited it in the draft BBG as a reason not to publish benchmarks⁴. This is clearly not the argument PIAC was making.

In response to AER Better Bills Draft Guideline Version 1 PIAC said:

Although in PIAC's joint submission to the AER's Developing the Better Bills Guideline Consultation Paper we raised concerns about benchmarks, we did, and still do, support the inclusion of benchmarks in the Guideline. As we stated in our previous submission, 'We contend that the benchmark comparisons are an important tool for consumers to understand their usage, but they should be accompanied by information about the limitations of the comparison and where a consumer can access information about using energy wisely to help them address any concerns.'

It was clear from the AER's research that consumers value benchmarks⁵ and, with improvements, they should be included as mandatory in bills. Even though BETA's research did not provide evidence that benchmarks result in changes to behaviour, people value having this information so it is important it be included.

There has been no adequate response for the AER as to why benchmarks have been removed from bills despite consumer advocates and consumers themselves demonstrating they are valued.

2.2 Consumer response to removal of benchmarks from bills

The removal of electricity consumption benchmarks from bills has not yet been fully implemented. Ceasing collection and publication of benchmarks is premature as the impact has not yet been felt, and consumer response to the removal of benchmarks from bills has not been tested.

Given there was no statutory time frame for reviewing the BBG, we recommend that the consumer response to the removal of benchmarks from bills be tested after at least four billing cycles, or one year. This will provide the time necessary for the removal of benchmarks from bills to be socialised with consumers and for consumers to seek information elsewhere or otherwise respond to the change.

Recommendation 1

Conduct a review into the Better Billing Guidelines after at least four billing cycles, or one year from September 2023. The Review should include specific testing of consumer responses to the removal of benchmarks from bills.

2.3 Uses of benchmark data

We challenge the assertion that the removal of the requirement to display benchmarks on bills results in benchmarking data no longer being useful. We are concerned that this circular logic will have ongoing impacts on consumer outcomes.

⁴ AER Better Bills Guideline Version 1 – Draft – Notice of Draft Instrument, 2022 p.39 <https://www.aer.gov.au/retail-markets/guidelines-reviews/better-bills-guideline-version-1/draft-decision>

⁵ AER Behavioural Economics Team of the Australian Government (BETA), '[Improving energy bills: final report](#)', 36.

It is our understanding that benchmarking data is currently used for EnergyMadeEasy.gov.au, by networks (including for customer impact modelling in tariff decisions), for energy system planning and other processes including transition planning. The energy law and regulation objectives themselves refer to efficient use of energy services. Well-constructed benchmarking data is currently a valuable tool for assessing this. The methodology used by the ACCC to produce reports for the Inquiry into the NEM includes use of EnergyMadeEasy which could be impacted by a cessation of benchmarking data.

Federal and State jurisdictions are currently undertaking the fundamental transformation of our energy system. Data on household energy use is crucial for the planning of future household energy needs. For example, the federal government is currently formulating a National Energy Performance Strategy which includes planning the long-term upgrading Australian homes to be efficient and electric. Benchmarking data is crucial for informing (and assessing) such strategies, developing targets and jurisdictional planning.

Most importantly, the current electricity retail market is founded on effective consumer information and action. Good value outcomes for consumers are predicated on their ability to understand the relative value of their usage and identify and switch to a better deal. Clear, consistent information on usage relative to useful benchmarks is an important part of this.

The EnergyMadeEasy website is a critical mechanism enabling consumers to search for and compare potential deals. We understand that up to 20% of consumers use the consumption benchmark data instead of their bills or NMI when using the website. Even for those who use NMI data, their decision to search is often motivated by understanding their usage is 'average' or below average (based on benchmark data) and seeking to understand if better options are available.

Vulnerable cohorts including renters are more likely to move house within 12 months. These groups are more reliant on the benchmarking option when using EnergyMadeEasy due to the unavailability of historic data. The AER's contention that 2020 benchmark data will be a sufficient reference point for consumers using EnergyMadeEasy into the future is inappropriate. Further, it contradicts the AERs own reasoning that the utility of benchmarks is in part related to how up to date they are. We understand the AER is redesigning EnergyMadeEasy and has future plans for making it more user-friendly. We cannot comment on whether the redesign will alleviate these concerns we have about EnergyMadeEasy losing benchmarking data as we have not been given sufficient details on these changes to EnergyMadeEasy.

2.3.1 Specific uses in Victoria

As noted in the AER proposal, under the Victorian Electricity Industry Act 2000 (section 40R) and the Energy Retail Code of Practice (s 63 (p); s 64) a retailer must include in each bill information about greenhouse gas emissions or bill benchmarking information where the customer is a residential customer.

Many electricity retailers in Victoria, including the largest retailers by market share AGL, EnergyAustralia, and Origin Energy, display both greenhouse gas emissions and electricity benchmarking information. While the AER is not required to develop electricity consumption benchmarks to comply with Victorian legislation, if retailers are not supplied with that information

and choose to discontinue the practice of including it on bills, Victorian consumers will be provided with less information simply through a quirk of regulatory jurisdiction. Benchmarking information is valued by consumers and consumer advocates in Victoria as a key piece of information that is articulated in easy-to-understand terms and is often an entry point for consumers who do not understand more technical information on their bills.

The assertion by the AER that retailers can simply use the AER's 2020 electricity consumption benchmarks on Victorian bills into the future is at odds with the AER's own position that benchmarking data is already outdated by the time it reaches consumers. The suggested alternative, that Victorian retailers could develop their own benchmarking information, is unlikely to eventuate given the AER's own position that surveying to create electricity benchmarking information is resource intensive.

2.4 Alternatives to benchmarks

The AER points to processes and technologies that could feasibly replace consumption benchmarks, as justification for their cessation. However, in every case the options noted are either not finalised, not implemented or unlikely to be able to be used by consumers in the near future. It appears that the AER is rushing to cease collection and publication of benchmarking data, long before realistic alternatives are in place and demonstrated.

2.4.1 Advanced meters and real-time data

Ideally, in the future, the utility of benchmark data will likely change for consumers as real-time data becomes more available, enabled by advanced metering. However, the vast majority of electricity consumers do not currently have an advanced meter, nor do the majority of consumers have solar, batteries and other stand-alone power systems that provide them with access to real-time data. Even most of those consumers with advanced metering are not able to access real-time data without paying for additional products and services. Vulnerable consumers in particular do not have ready access to these products and technologies and are unlikely to.

The current AEMC review of the regulatory framework for metering services has a goal of 100% advanced meter coverage by 2030. This does not necessarily address the issue of data availability and accessibility for all consumers. The argument that consumption benchmarks are now rendered obsolete by advanced meters and real-time data is premature. Effective benchmarks will continue to play an important role at least until 2030 and should be updated accordingly.

2.4.2 Dwelling types and appliances

The AER asserts that the type of dwelling people live in, the energy efficiency of appliances and other household factors have more impact on consumers understanding of and decision-making around energy efficiency than electricity consumption benchmarks. These are important determinants of usage and consumer agency, however we disagree the appropriate conclusion is to cease collecting and publishing electricity consumption benchmarks entirely.

We are concerned households, in particular vulnerable cohorts who often do not have ready access to energy efficient appliances, or renters who cannot make structural energy efficiency upgrades to their homes, will be left without a crucial (and consistent) tool for understanding their energy use. In order to protect and improve on this tool, we recommend that factors including

dwelling type and the efficiency characteristics of key appliances could be brought into the methodology for consumption benchmark data collection and presentation. This would help improve the utility of benchmarks, including for ongoing policy processes that are considering how to help vulnerable cohorts, including renters, to access energy efficiency upgrades and appliances.

2.4.3 Historical data

The AER asserts consumers find historical data more useful than consumption benchmarks. However, the AER's own BETA research reveals that this is a false dichotomy, with consumers finding multiple types of data (in isolation or in combination) useful, including historical, consumption benchmarks and greenhouse emissions benchmarks.

While historical data is useful it is a difficult for consumers to access consistently and effectively. Consumers who remain with the one retailer are able to access their historical data relatively easily. When consumers switch retailers, they lose ready access to their historical data. This is a crucial consideration where we have an electricity retail market that is predicated on consumers switching retailers to find a better deal and is consistently encouraging them to do so.

We also note, that as our energy system transforms the utility of historical data may decrease or becomes less consistently reliable. Electrification of households, uptake of solar, electric vehicles, batteries and stand-alone power systems, and installation of efficient appliances will likely significantly change individual household energy consumption. Indeed, the step changes of the transition (including electrification and EVs) may increase the value of benchmarks, providing consumers with new household appliances with consistent information on the expected usage in their new circumstances.

2.4.4 Data Strategy and Consumer Data Right (CDR)

The rule change proposal points to the existence of the CDR and the ESB's ongoing Data Strategy process, to assert that alternative avenues to collect or access data are available and will make electricity consumption benchmarks redundant.

Like the assertion about smart meters, this is premature. The Data Strategy has not been completed let alone fully implemented, and so is not a current viable alternative. Perhaps once the Data Strategy is established it will have a role to play in the provision of electricity consumption data, but this role has not yet been demonstrated. We also note the ongoing challenges with the CDR and consumer stakeholders' serious concerns with the direction it has taken through changes to its structure and processes.

We question realistically how many consumers are actively accessing and using the CDR compared to checking their bills for usage information and comparisons. In any case, consumer outcomes cannot be predicated on assumptions of future services.

2.5 Redesign benchmarks for stronger consumer outcomes

Redesigning electricity consumption benchmarks would provide the basis for stronger consumer outcomes than a cessation of benchmarking data collection and publication.

We recommend the AEMC make a more preferable rule that requires the AER, in consultation to redesign the methodology of the benchmarking data collection to increase its utility for consumers, regulators and policymakers. Reformed electricity consumption benchmarks should

include more data points, such as dwelling type, fuel sources, efficiency of key appliances, and that benchmarking data be provided to consumers with appropriate explanations on the use and limitations of the data.

We challenge the AER's assertion that it is functionally too difficult to gather specific data for more detailed benchmarks. Given the wide range of research methodologies that are currently employed by Australian researchers, we suggest that the expertise certainly exists to redesign a methodology for electricity consumption benchmarking. The AER should consider this project an important basis for generating more valuable consumer information to help facilitate the energy system transition.

Recommendation 2

The AEMC reject the existing rule change to remove the AERs obligation to develop and update electricity consumption benchmarks. And instead make a more preferable rule to require the AER to, in consultation, redesign the methodology of benchmarking data collection and publication to increase its utility for consumers, regulators and policymakers. This could include more data point such as dwelling type, ownership status, household fuel sources, efficiency of appliances and could ensure that benchmarks are communicated alongside appropriate explanations on the use and limitations of the data.

3. Implementation

Costs of developing benchmarks is presented as a key reason for the rule change proposal. We reject the premise that something being resource intensive is a reason not to do it. The relative costs of benchmarking activities are not material relative to the beneficial role they play, both directly for consumers and indirectly in support of a more efficient energy system. During cost-of-living crisis and fundamental energy system transformation, energy efficiency and consumer information are a priority, and should not be subject to cost-cutting measures.

4. Principles of good regulatory practice

We reject the AER's assertion that there are adequate alternatives to the benchmarks.

The rule change proposal and the AER's justifications for it, are overly reliant on alternative processes that have not been finalised, implemented or socialised with energy consumers. It is poor regulatory practice to remove a measure of consumer information and protection before the assumed alternatives have demonstrated they are functioning as intended.

Good regulatory practice also aims to future-proof measures where possible. The transformation of our energy system presents a complex, long-term planning challenge. The datasets derived through more effective benchmarking should play an important role in helping to guide aspects of the transition challenge and to inform and enable consumers to benefit from it. To cease collection and publication of benchmarks at this stage is short-sighted and we strongly recommend against the proposed rule.

5. Continued engagement

PIAC, ACOSS, VCOSS and SACOSS welcome the opportunity to meet with the AEMC and other stakeholders to discuss these issues in more depth.