

27th March 2020

Essential Service Commission
Level 37, 2 Lonsdale Street
Melbourne, Victoria 3000

Submitted via website: <https://engage.vic.gov.au/>

Thank you for the opportunity to provide a submission in response to 'Changing the back-billing rules for retail energy customers' Draft decision.

Momentum Energy is a 100% Australian-owned and operated energy retailer. We pride ourselves on competitive pricing, innovation and outstanding customer service. We retail electricity in Victoria, New South Wales, South Australia, Queensland, the ACT, and on the Bass Strait Islands. We offer competitive rates to both residential and business customers along with a range of innovative energy products and services. We also retail natural gas to Victorian customers.

Momentum Energy is owned by Hydro Tasmania, Australia's largest producer of renewable energy.

Introduction

We consider the undercharge rules in the Energy Retail Code (the Code) are important provisions that protect customers from being excessively back-billed due to retailer errors. Momentum is fully committed to delivering accurate bills to customers on time and we acknowledge that a reduction in the allowable back-bill period would increase the incentive on retailers to fix problems and ensure an accurate billing system.

However, the proposed amendment will have significant retailer implications. With major consequences for billing systems, it will be challenging for retailers to make effective changes by the proposed implementation date. It is imperative for the Essential Service Commission (ESC) to consider extending the implementation timeframe for this change so that retailers can adequately implement and test system changes. This will ensure that the change delivers the desired outcome to consumers in the most cost effective manner.

We understand the ESC is required to follow its Terms of Reference from government and appreciate that the ESC has delayed its final decision to allow for thorough consideration of the issue. However, we note that the current COVID-19 pandemic will necessitate further delay. The sector is currently facing unprecedented challenges from COVID-19 and it is critical for government and industry to work together to keep the sector stable to ensure the continued delivery of a reliable and secure essential service to the Australian community. We consider that it would be prudent to delay implementation of the proposed amendment until at least 1 July 2021.

In addition, we urge the ESC to comprehensively consider how the undercharge rules will interact with other clauses, as the proposed amendment is not aligned with the Code. We strongly suggest that the ESC review all issues in the context of the Code in its entirety, before embarking upon implementation. Simply amending the back-billing rule without due consideration of other obligations will create complexities with regard to how retailers are to comply. We provide our comments on these matters below.

Comments

While we support moves to increase retailer accountability around bill accuracy, it is unclear how it was determined that a 4-month back-bill period is a reasonable timeframe. This timeframe is generally manageable for customers who are billed on a monthly basis, however, it raises problematic issues for customers on quarterly cycle accounts. While many retailers encourage monthly billing, as often customers are better placed to manage regular, smaller bills, we note that quarterly billing is still the default in Victoria under the terms of the Victorian Default Tariff. We consider that anachronisms such as this must be addressed before the benefits of broader reform can be fully realised.

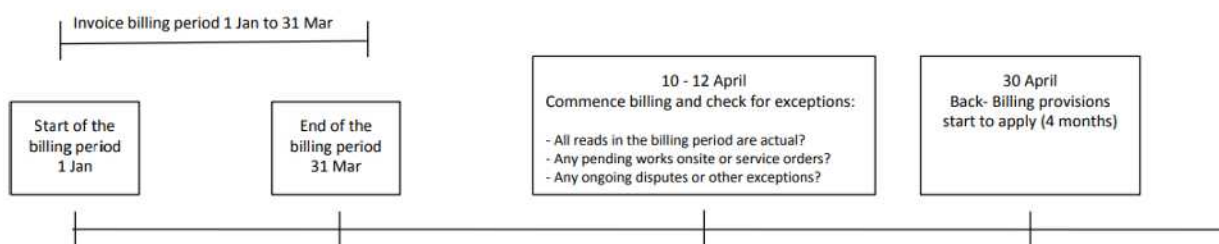
We note that the back-billing rule applies generally in two scenarios: delayed billing and bill adjustments.

1. Delayed Bills

A representative example would be a delayed billing instance where the customer has not received an invoice for a number of months. We acknowledge that the ESC is concerned with instances where a customer receives 9 months' worth of delayed bills all at once. This situation is exceptional and is usually a result of an ongoing dispute, investigation or issue on an account that a customer is involved in. It is extremely unlikely that an unbilled account goes undetected for a substantial period without valid reasons. Momentum has appropriate mechanisms in place to identify unbilled accounts so that issues can be resolved in a timely manner. The appropriate means to address this issue is not simply a reduction in back-billing, but effective targeted regulation that addresses the reasons why invoices are delayed.

In practice, the subject of delayed bills is very context dependent and every account has unique circumstances. For example, any electrical work, metering alteration, tariff enquiry or network interruption would result in a pause in billing. Tariff changes (whether requested by a customer or a directive change from the network), solar installations, service orders et cetera vary between 10 to 20 business days as prescribed in the B2B Procedures. Any type of activity that interferes with the metering onsite requires time to process, investigate and validate metering data before invoices can be issued. It is reasonable to take these steps in order to ensure accuracy of bills for our customers and to prevent adjustments being made at a later date.

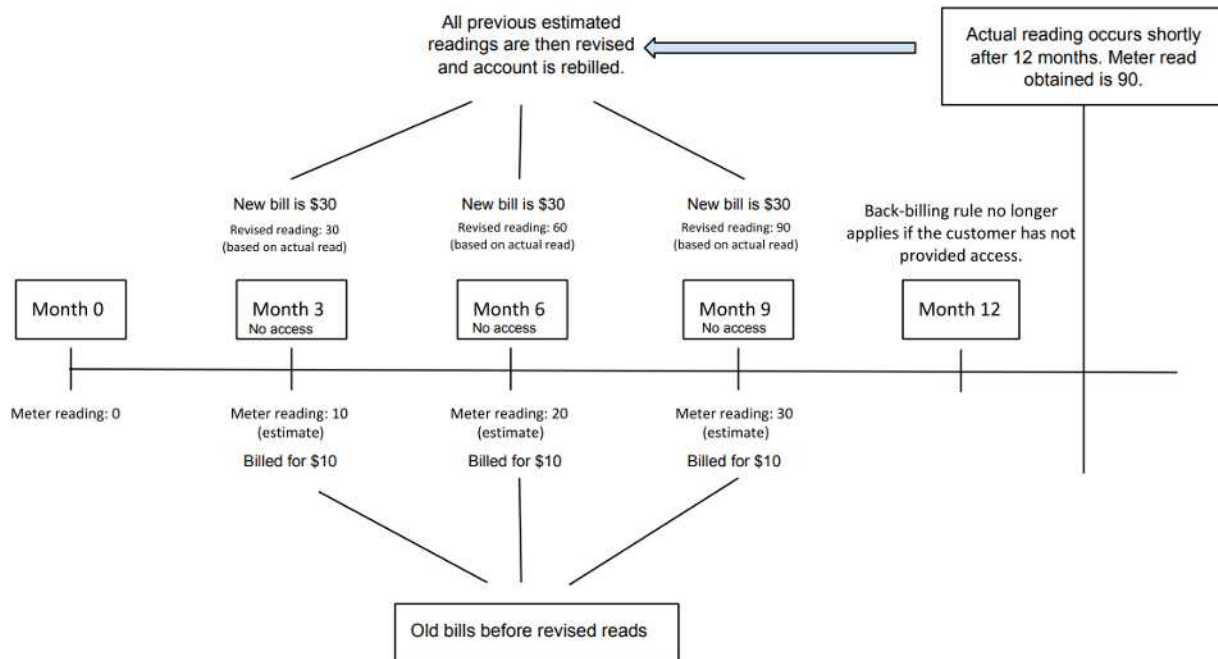
To illustrate our example, we have provided a realistic timeline below for a customer on a typical quarterly billing cycle.



If an interruption occurs near the end of the billing cycle (start of April in the above example), retailers will only have a small window (2-3 weeks) before the back-billing rules apply. We note

which states that the undercharging principle does not apply to situations that are a result of the customer's fault or omission. We note that the 9-month rule was implemented in consideration of the 12-month reading requirement allowing retailers to recover all revenue which they are owed provided they used best endeavours to obtain an actual read.

We question the ambiguity in these obligations if the allowable period is reduced to 4-months and we have concerns that this becomes an incentive for customers with access issues to continue preventing retailers and distributors from acquiring a read more than once per year. This problem is highlighted in the example below.



In the above diagram, we have outlined the timeline of a consumer with access issues over a span of 12 months. The customer has already been issued with three consecutive estimated quarterly bills (with the details beneath the timeline). Provided that the retailer has met best endeavour requirements and the customer has refused to provide a read after 12 months, any subsequent actual meter read would then permit the retailer to recover the undercharge amount. This process involves amending the old invoices and issuing new adjusted bills with revised reads to the customer (demonstrated by the adjustment above the timeline).

The proposed back-billing timeframe does not align with the retailer's obligation to obtain a read from the customer once per year. The exception in clause 30, referring to the 'customer's fault or omission', would only apply at the end of the 12 month period. We highlight this problem as any customers who have access issues shorter than 12-months are eligible for a 4-month adjustment. As long as the customer meets this requirement, retailers must follow the undercharge principles.

For example, a customer who has access issues for two consecutive bill periods (6 months) and then subsequently provides access on the following cycle (9th month) would be considered to have performed their obligations under the Code as they have provided a read within a year. With the current proposed amendments, retailers would be required to make adjustments to previous bills based on the new revised reading and write-off any undercharge consumption older than 4 months.

Whilst retailers and distributors have strict timeframes to adjust bills, customers should be required to allow actual readings to occur more frequently than once per year to avoid the above issue from occurring. Alternatively, the exception to clause 30(2)(a) should be aligned with the proposed back-billing timeframe. For example, the ESC could consider amending the exception to allow retailers to perform undercharge adjustments after two consecutive failed meter readings.

Clause 24 – Frequency of bills

Clause 24 of the Code prescribes the default billing frequency for electricity is three months and two months in the case of gas. Billing on any other cycle requires explicit informed consent (EIC) from the customer. These cycles are based on the fact that before the AMI meter roll out, basic meters were read on a quarterly basis and any remaining basic meters today still have this arrangement.

As customers default onto the Victorian Default Offer (VDO) under new amendments in Division 7 of the Code that apply from 1 July 2020, it is likely that number of accounts on quarterly billing will increase significantly, as the billing frequency will also default to prescribed cycle per this clause.

[REDACTED]

[REDACTED] Whilst we strongly advocate for customers to have the ability to choose when they want to be billed, amending the back-billing period would practically give retailers little opportunity to adjust bills for these quarterly cycle customers as outlined in the examples above. Continuing to mandate the billing frequency with the requirement of EIC makes it hard for retailers to encourage and implement monthly billing in which provides more time for retailers to fix issues in a longer timeframe. We ask the ESC to consider whether this obligation is still fit for purpose in consideration of recent regulatory changes.

Clause 21 – Customer provided reads

Retailers are obligated to process customer provided reads for sites that have basic meters. We note that distributors are not subject to this clause and therefore, they are not obliged to accept customer-provided reads.

Under this clause and the back-billing provisions, retailers are required to adjust bills immediately, often refunding the overcharge amount to the customer. We highlight there are major discrepancies from customer-provided reads and network estimated reads which are only revised when an actual reading is obtained from the site. The complexity with the proposed back-billing rule effectively limits the allowable period to make adjustments on these accounts in order to align with the distributor's reads. This creates further discrepancies in billing accounts with two different sets of reads and makes reconciliation procedures more challenging. We consider the billing rules that retailers are required to adhere to should be consistent with how the distributor bills for those reads.

Clause 30 – Undercharge

Clause 30(2)(c) provides that retailers can ‘recover the amount undercharged as a separate line item in a special bill or on the next bill...’

Whilst Momentum currently issues new bills when an undercharge event has occurred, other retailers may make the adjustment as a separate line item on the following bill, as permitted by the clause. Changing the back-billing period to 4 months would no longer allow retailers to make adjustments on the following bill, particularly for customers on a quarterly cycle and a gas bi-monthly cycle. These limitations will require significant process changes and system upgrades in order to perform the undercharge adjustment, leading to higher costs and changes to resourcing in order to comply with the amended rule. We believe that altering the back-billing provision does not complement the permitted requirements of the clause.

Negative Consumer Outcomes

Under current arrangements, retailers work with consumers and distributors to gain access to meters to allow actual reads to be taken. Reducing the allowable timeframe for the recovery of historical charges incentivises retailers to exercise their legislated right to disconnect customers who do not provide unhindered access to their meter. Retailers do not take such decisions lightly however, in order to mitigate revenue reduction flowing from the proposed rule change, this right may begin to be exercised more robustly. We do not believe that a reform which leads to this outcome is in the long term interests of Victorian consumers.

Conclusion

Amending the back-billing rule would bring unprecedented changes to our billing systems and processes within our business. We note that handling exceptions and performing undercharge adjustments is a very time consuming and manual process.

We understand the intent of the reform is to create an incentive for retailers to improve the accuracy of their bills however the change, as drafted, creates risks to retailers which are disproportionate to the customer benefit. In light of this we recommend:

- Delaying the final decision until provisions in other codes, legislation and B2B procedures are aligned; and then allowing retailers sufficient time to implement process changes. The extended timeframe would also allow retailers to focus on implementing current support measures for customers experiencing difficult circumstances as a result of the COVID-19 pandemic.
- Considering revising the provision from a simple 4-month timeframe in all circumstances to a rule that is based on a customer’s billing cycle plus 3 months to reflect the challenges of quarterly billing;
 - Monthly customers: 4-month timeframe
 - Quarterly customers: 6-month timeframe
 - Gas bi-monthly customers: 5-month timeframe

If you require any further information with regard to this submission, please contact me on [REDACTED]
[REDACTED] or email [REDACTED]

Yours sincerely



Regulatory Officer
Momentum Energy