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### **Consumer Data Right – Energy Rules Framework consultation paper**

Alinta Energy welcomes the opportunity to respond to the Commission's consultation paper on the rules framework to apply to the energy sector to implement the Consumer Data Right.

Alinta Energy, as an active investor in energy markets across Australia with an owned and contracted generation portfolio of nearly 3,000MW and more than 1.1 million electricity and gas customers has a strong interest in the development of rules that will shape the initial and subsequent iterations of the CDR in the energy sector. We support the Commission's approach and principles supporting an economy wide, interoperable CDR regime that will foster competition and support greater customer choice and convenience.

The Commission identifies key elements requiring consideration in applying the CDR rules to the energy sector. Some additional rules catering for issues arising in energy were inevitable in expanding the CDR into the energy sector. However, Alinta Energy believes that most of the benefits of the CDR will be achieved if the focus remains on the likely use cases and products of most interest to consumers accessing the CDR (directly or via a service provider who is an accredited data recipient).

Alinta Energy is generally supportive of the Commission's approach to classification of data sets, customer eligibility and specific options presented in relation to authentication, customer dashboards, phased implementation, and accreditation of ADRs.

The Commission should take advantage of existing process in the energy sector where possible in drafting energy sector specific rules to minimise costs of implementation and ongoing operation of the CDR in energy.

While the future development of the CDR will require flexibility in the approach to rule development, Alinta Energy believes there are diminishing returns in developing rules to accommodate use cases and scenarios with a low probability of take up and viability in the first iteration of the CDR for energy. As such, we would argue against unnecessary complication, to implement the first iteration of the CDR in a timely way. Evidence of customer acceptance and take up of products and services facilitated by the CDR will provide confidence for industry (ADRs, AEMO, data holders) to invest in further improvements in the CDR.

Similarly, protection of customer privacy and data is of critical importance and Alinta Energy acknowledges the work of Treasury and the Commission with respect to the Privacy Impact Assessments undertaken. Consumer confidence and trust in the CDR will be key to its acceptance and success and negative perceptions could potentially have ramifications for the energy supply industry more generally should adverse outcomes occur. We believe to support consumer confidence in the CDR, a precautionary approach will serve all stakeholders through its initial implementation in the energy sector.

We respond to specific questions and issues raised in the consultation paper below and welcome further discussion with the Commission on any of the matters raised in this response and ahead of the release of the draft energy sector rules. Please contact David Calder (Manager, Regulatory Strategy) on [REDACTED] in the first instance.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'G. Hamilton', is positioned above the printed name.

**Graeme Hamilton**  
General Manager, Government & Regulatory Affairs

## **Response to specific issues and questions in the consultation paper**

### **1. Approach to datasets**

#### ***Customer data***

There is be merit in a separate data set for sensitive personal information being established so that customers are informed and consent to the use of the data by an ADR. We note that maintaining a separate data set for sensitive customer information may carry additional implementation costs.

CDR personal information should be limited to account holders only. Retailers do not hold personal information on non-account holders. The financially responsible account holder(s) are relevant to CDR data, but not other occupants of a premise who are non-account holders.

#### ***NMI Standing data***

Alinta Energy supports the use of current NMI standing data in CDR datasets.

#### ***Metering data***

Applying a limit of two years to the sharing of metering data, consistent with sections 56A and 86A of the National Energy Retail Rules is supported.

#### ***Energy plan information***

Energy plan information should be limited to small customers only. Alinta Energy does not support including large customer data in the CDR. These customers have bespoke arrangements in most cases and are unlikely to be subject of use cases by third parties. There is an established, sophisticated process for energy product procurement and demand management tools for large customers. As a result, including large customers under the CDR regime will result in marginal benefits at most, but significant additional implementation costs.

### **Section 3: Customer data – approach to data sets in energy rules**

1. Do you agree with our proposed approach to data sets in the energy rules? Why or why not?
2. Considering the above discussion about potentially sensitive information, what data, if any, should be subject to specific arrangements (for example, during the consent process)? Should any particularly sensitive data be explicitly excluded from the proposed data sets?

Alinta Energy supports the recommendation in the supplementary privacy impact assessment that sensitive customer data can only be transferred with the provision of explicit customer consent.

How an ADR gathers, uses and stores sensitive customer data (such as being in a retailer hardship program or having a concession) needs to be made clear to the customer providing consent at the time that consent is granted and again if the understood use changes.

## **2. Issues requiring energy-specific rules**

### **Energy plan data holders**

Alinta Energy supports the AER and the Department of Environment, Land, Water and Planning (as the respective administrators of Energy Made Easy and Victorian Energy Compare) as the data holders for energy plan information.

### **AEMO Gateway**

The application of the Australian Energy Sector Cyber Security Framework to the existing CDR (banking) rules to manage information security controls is appropriate to extend to the AEMO gateway.

#### **Section 4.1: Approach to the Rules, standards and privacy safeguards to accommodate the gateway data access model**

3. Do you consider the proposed approach to the gateway rules, standards and privacy safeguards appropriate for CDR in energy?
4. If not, which aspects of the approach should be reconsidered or amended, and why?
5. Should the information security obligations contained in Schedule 2, Part 2 of the Rules be applied to the gateway, or should we adopt an alternative standard such as the AESCSF?
6. Should the gateway be subject to obligations relating to the privacy safeguards, beyond what is set out in Part 7 of the current Rules?
7. How should any disclosure of voluntary consumer data work under the gateway data access model (see section 3.3.1 for discussion of voluntary data)?

In response to question 3, Alinta Energy believes the proposed approach is appropriate.

In response to question 5, Alinta Energy believes the Commission should consider the merit of applying the AESCSF as a means of protecting data under the CDR. We note that AEMO will also have to comply with changes to the Critical Infrastructure and Systems of National Significance legislation (along with other energy sector participants). This will include enhanced obligations around reporting of cyber security threats.

In relation to question 7, we believe it is premature to define the type and scope of voluntary consumer data. Effort needs to focus on required consumer data at this stage of developing the CDR for the energy sector.

### **Eligible consumer**

#### Proposed approach

In general, Alinta Energy supports the Commission's proposed approach. Customers should have an active account to be eligible to participate in the CDR. The complexity of managing customer data, where the customer is no longer financially responsible to a retailer will add significant complexity for limited and indeterminate benefit.

As discussed above, large customers should be excluded from the CDR. The process of energy contract and product procurement for large customers is well established, with active brokers engaging with retailers for tenders, data provision processes and contract

evaluation. There is no likely benefit making such customers eligible for the CDR.

#### Account holders

Alinta Energy supports the ACCC's approach to eligibility being limited to *active* account holders (single or joint accounts). Account holders need to be authorised and financially responsible for the account.

A person who is a resident of a premise of a data holder but not account holder should not be eligible for the CDR in respect of energy consumption at that premise.

Complex accounts should be considered in a later iteration of the CDR. The use cases offering greatest benefit will be captured by applying authorised single and joint account holders.

We do not agree that there is a firm consensus on energy data being less sensitive than data in the financial sector. Concession eligibility, hardship program participation, payment assistance plans and life support information are arguably as sensitive as conventional financial data.

#### Nominated persons

The ACCC characterises the main types of nominated persons on page 26 of the consultation paper. In general, nominated persons should not be granted decision-making rights under the CDR and as such, should not be included as CDR customers. While nominated persons have an important role (often in assisting and advising vulnerable customers for example) in this initial iteration of the CDR, they should be excluded.

#### Minors

Alinta Energy believes for the first iteration of the CDR, minors should not be included as eligible customers. The risk (and cost of managing) the inclusion of minors at this stage exceeds any foreseeable benefit of inclusion.

#### Active accounts

Inactive accounts should be excluded from the first iteration of the CDR and energy sector specific rules. There are privacy risks associated with providing data for inactive accounts to the extent that this data may relate to a different individual who was responsible financially for energy consumption in the past.

CDR use cases for inactive accounts are not obvious and are unlikely to be common. Making provision to capture inactive energy accounts in energy sector CDR rules will impose significant implementation costs on retailers (re-authentication, record management, linking to the application programming interface to AEMO as the gateway), with limited benefits captured.

#### Online and offline accounts

Alinta Energy does not agree that offline account holders should be included in the definition of eligible CDR customers for the first iteration of the CDR energy sector rules and implementation.

Having an online account is consistent with the digital nature of the CDR as a platform, offers greater privacy protections to consumers and allows them full control over granting

permissions and managing preferences. Should customers wish to participate in the CDR, they will have an incentive to register for an online account to do so. Allowing offline customer eligibility increases the complexity of CDR implementation in the first iteration and exposes consumers to privacy risks through lack of access to an accredited person or data holder dashboard.

#### Large customers

As discussed above, Alinta Energy does not believe the benefits of including large customers under the initial iteration of the CDR will exceed the costs of supporting their inclusion. As the ACCC notes on page 29 of the consultation paper that large energy consumers already have sophisticated means of managing their energy contracts, demand and metering provision, often through specialist third parties.

We suggest the ACCC explore the application of jurisdictional thresholds already in place to distinguish between large and mass market (residential and small business customers) and engage with retailers, consumers and the AER before making rules that will apply nationally.

### **Section 4.2: Eligible consumer**

Consultation questions: eligible consumer

8. Do you agree with our approach to determining an eligible CDR consumer? Why or why not? What additional factors should we consider? In providing a response you may wish to address the following:
  - What are the risks and benefits of including minors as eligible CDR consumers? If minors are included, what additional safeguards are required (if any)?
  - What use cases exist for retailer-held consumer data sets for inactive accounts? What changes to data holder obligations would be appropriate to facilitate this?
  - How might we facilitate the inclusion of customers who do not have an online account with their retailer as eligible CDR consumers? What particular issues will need to be resolved?
  - Should any particular customers, such as large customers, be excluded from the initial scope of CDR in energy? How should our approach account for the spectrum of large customers (for example, significantly large customers versus mass market large customers)? What thresholds or definitions might we use in determining these customers?
  - Are existing protections in the Rules that place restrictions on accredited persons seeking consent and where disclosure of data would create a risk of harm (for example, Rules 4.12(3)(b) and 4.7) appropriate for CDR in energy or do they require some adaptation?
9. Is our characterisation of energy joint accounts and energy nominated persons accurate?
10. Is our proposed approach to facilitating data sharing for joint accounts appropriate for the energy sector?
11. Should nominated persons or certain nominated persons be eligible CDR consumers?
12. What particular arrangements exist for nominated persons who are able to transact on business accounts?

With respect to question 8, Alinta Energy responds in turn to each sub-point raised in the Commission's question:

- Minors

The risk of minors being vulnerable to exploitation under the CDR outweighs any use case benefits for the initial iteration of the CDR.

- Use cases for inactive accounts

While there may be some value in the historic data of individual customers, the complexity of providing inactive data through the gateway, authenticating customers and ensuring consistency across retailers outweighs the limited benefit of use cases that may exist at this time. The onus is on data seekers to demonstrate the benefits exceed the likely (material) costs in this case.

- Offline account holders

See our comments on this issue above.

- Large customer exclusion from initial CDR for the energy sector

For smaller sites of aggregate, large customers, the total load of the sites for which energy is centrally procured should be used as the basis to test CDR eligibility against the appropriate large/small customer threshold.

In relation to question 9, we believe the Commission characterisation of joint accounts and nominated persons is accurate in an energy sector context.

In response to question 10, the proposed approach is appropriate if limited to the current authorisations permitted in the energy sector [under the Energy Retail Code (Victoria) and the NERR (NECF states)].

For question 11, it is our view that nominated persons should not be eligible CDR consumers in the initial iteration of the rules and CDR framework for energy due to the privacy and consent risks involved.

### **Authentication**

Alinta Energy is generally supportive of the Commission's proposed approach to authentication for the CDR in the energy sector. Model 1 is our preferred mechanism to authenticate.

### **Section 4.3: Authentication**

13. Do you agree that strong consumer authentication based on a redirect model is the correct authentication model for CDR in energy? If not, please set out your preferred alternative model, and the risks and benefits of that approach.
14. Do you agree that data holders should be able to rely on a single authentication carried out by another data holder?
15. What are the risks and benefits of allowing customers to engage with a redirect-based authentication model offline (for example, by telephone)?
16. What are the costs and benefits for stakeholders associated with Model 1 and Model 2?
17. Do you agree with our preference to implement Model 1 as the authentication model for CDR in energy?
18. Should the ACCC and DSB also facilitate Model 2, for example as an alternative for retailers who are unable to build the authentication capability required by Model 1?
19. If the ACCC and DSB facilitate Model 2, what consumer experience factors should we take into account with respect to how dashboards should be presented to CDR consumers?

Strong authentication via a redirect model is the most appropriate approach to the first iteration of the CDR for the energy sector (Q.13)

A single authentication is preferred to multiple authentication checks (Q.14) if all data holders are adhering to the applicable data standards and rules.

As we discuss above, the risks of extending CDR eligibility to offline consumers exceed the benefits. Encouraging online participation and incentivising customers to do so is the preferred approach (Q.15).

We believe that Model 2 confuses the role of AEMO as the administrator of the gateway. It moves from a transactional function to a potentially customer-facing role. AEMO is not equipped to deal directly with mass market customers and will involve additional costs to support such functions (or outsource these). Model 1 is preferred as it is consistent with the CDR customer's current relationship with their retailer (Q.16)

For these reasons, Alinta Energy supports Model 1 as the authentication approach in energy (Q.17).

### **Dashboards**

#### **Section 4.4: Dashboards**

20. Of the three options for data holder dashboards, which do you prefer and why?
21. What are the advantages and disadvantages of each of the options?
22. What other options should we consider?
23. Noting our intention to include customers without an online account with their retailer as eligible CDR consumers (see section 4.2.3.4) how might dashboards be provided for these consumers?
24. What consumer experience factors should we take into account with respect to how dashboards should be presented to CDR consumers?

Alinta Energy supports option 1- a single dashboard provided by retailers as data holders will:

- Maintain the simple and familiar relationship between the customer and its retailer as the data holder;
- Build trust, confidence and acceptance by consumers in the CDR for the energy sector;
- Makes safeguarding privacy through existing retail processes more certain;
- Avoids the need for AEMO to develop customer-facing systems and processes, or contract these out to a third party; and
- Will likely result in lower implementation costs.

With respect to question 21, options 2 and 3 move away from a customer's understanding of their relationship to the energy sector and is likely to increase implementations costs.

For the reasons discussed above, customers without an online account should not be included as eligible for the first iteration of the CDR in the energy sector.

### **Dispute resolution**

The internal dispute resolution (IDR) approach for the CDR should align with the Australian Standard 10002:2014. The Australian standards apply across sectors of the economy and support harmonisation in the long term. ASIC's regulatory guide has been developed with a focus on the financial sector and it is not appropriate to apply this to other sectors as a benchmark.

#### **Section 4.5: Dispute resolution**

25. Do you agree with our proposed approach to energy sector IDR? If you are an energy retailer, to what extent do you consider your current IDR processes as required under the Retail Law or Energy Retail Code meet Schedule 3, Part 5 of the Rules?
26. How important do you consider consistency of IDR approaches across sectors at this stage of the CDR regime?
27. Do you think the Rules should provide for IDR processes for complaints by CDR entities to and about these same parties? Why or why not?

Alignment with existing requirements set out in the National Energy Retail Law and Energy Retail Code (Victoria) is preferred. National consistency across sectors is best served through the adoption of Australian Standards. Retailer IDR processes are mature and well developed and while we have not undertaken an in depth analysis of the extent to which they meet Schedule 3, Part 5 of the CDR Rules, the obligations under the National Retail Law and Energy Retail Code align with the objectives of a dispute resolution scheme for the CDR.

Consistency of IDR approaches is important at this stage the development of the CDR to avoid entrenching differences in the future when additional sectors become part of the regime.

A mechanism to resolve disputes between CDR entities may be required but need not be as prescriptive as an IDR to resolve CDR customer complaints (i.e. energy consumers themselves).

## **Phased implementation**

Alinta Energy believes it may be practical to engage in a phased implementation for the introduction of the CDR. In terms of thresholds, the CDR should cover as many retailers as possible to maximise its benefits to energy consumers.

Of the phased implementation options presented, Alinta Energy supports option 1 or 2. Incumbent retailers have larger customer base across multiple jurisdictions and are more readily able to absorb the costs of initial implementation and manage the introduction of the CDR. This approach will realise the benefits of the CDR in a phased way.

## **Accreditation**

### Tiered accreditation

As raised above in our comments on Account Holders, Alinta Energy does not agree that energy data is less sensitive than banking data.

It is too early in the development of the CDR for any sector of the economy (including energy) to make firm decisions on the level of scrutiny and requirements that might apply to a lower tier of accreditation. Some of the decisions on other aspects of the rules will require further consideration before finalisation for the same reason – there remains significant uncertainty about the likely use cases and mode of operation in relation to the CDR.

A tiered accreditation regime at this time will potentially result in confusion for CDR customers – not knowing what their ADR service provider is able or not able to do, or understanding the distinction between accredited parties with unrestricted access and those who have restricted access to CDR data in the energy sector. In these circumstances, it is difficult for customers to make informed decisions.

### Streamlined accreditation

While Alinta Energy recognises there is merit in a streamlined approach to accreditation, we note the significant pre-conditions to be authorised as a retailer (in NECF jurisdictions and licensed in Victoria) and ongoing, comprehensive regulatory oversight, compliance and reporting obligations with significant penalties tied to non-compliance. These obligations include protecting customer data and their privacy.

Accreditation therefore must apply a measure of reciprocal scrutiny to those seeking to access and use CDR data, a light-handed approach to one part of the CDR regime could erode the confidence consumers have in the CDR. For energy retailers, streamlining of accreditation to act as both ADRs and data holders may be appropriate, given the significant regulation and compliance obligations already applied to this sector of the energy market.

## **Section 4.7: Accreditation**

### *Energy data*

34. Do you agree that energy data sets are less sensitive than banking data sets?
35. Should any energy data sets, or subsets of those data sets, be treated with a higher degree of security (due to potential sensitivities), similar to banking data?
36. If you agree that some or all energy data sets are generally less sensitive than banking data sets, do you support the introduction of a lower tier of accreditation for ADRs seeking to access those energy data sets?
37. If so, how should the obligations for ADRs at the lower tier differ from those applicable to ADRs at the existing 'unrestricted' tier? In particular, should the obligation to provide an assurance report be modified as outlined above?

### *CDR-wide tiering*

38. Alternatively, do you consider that we should consider introducing a lower tier of accreditation on a cross-sectoral basis for both banking and energy?
39. If so:
  - (a) what energy and banking data sets would be appropriate for a lower-tier ADR to access?
  - (b) how should we restrict access to CDR data sets for ADRs accredited at the lower tier?
  - (c) how should the obligations for ADRs at the lower tier differ from those applicable to ADRs at the existing 'unrestricted' tier?
  - (d) what should be the criteria for accreditation at the lower tier (having regard to the ADR's obligations) and what level of evidence should be required in support of an application?

### *Streamlined accreditation*

40. Do you agree that data holders in energy, if they wish to become ADRs, should have access to a streamlined accreditation process analogous to that applicable in banking?
41. If so, can we rely on existing information security and other regulatory obligations in granting streamlined accreditation to such data holders?
42. If so, why are the existing obligations sufficient, and do you consider the obligations to be sufficient to grant streamlined accreditation at the 'unrestricted' tier, or at a lower tier introduced by the ACCC?
43. If not, but you remain supportive of some form of streamlined accreditation, what additional obligations should we impose as part of a streamlined accreditation process for energy data holders?
44. Do you agree with our preliminary view that any streamlined accreditation requirements for energy data holders should not override the requirement for ADRs to have adequate insurance or a comparable guarantee that will properly compensate consumers for any losses that may arise from a breach of an ADR's obligations?

### *Conditions for accredited person to be data holder*

45. Do you agree with our view that conditions like those set out in Schedule 3, clause 7.2 of the Rules should be adopted in CDR in energy, with appropriate modifications? If so, what modifications are required?

We respond to a selection of these questions in turn.

## Energy data

(Q.34) As discussed above, we do not believe that energy data is less sensitive than financial data. The view that it is inconsistent with the comprehensive regulatory regime applying to energy retailing.

(Q.35) Sensitive data (including concession status, hardship program participation, life support status) should be treated with particular care. To build consumer confidence in the CDR, its first iteration should avoid a lower level of accreditation.

(Q.36) As discussed above, a lower level of accreditation to support access to less sensitive customer data is not appropriate at this time. It is too early in the CDR regime development for the energy sector to consider tiered accreditation for the first iteration without evidence of take up, use cases and customer experience.

(Q.37) A tiered accreditation approach should not be introduced at this time for the reasons discussed above.

## CDR-wide tiering

(Q.38 and 39) Alinta Energy believes it is too early to consider a cross-sectoral tiered accreditation of ADRs.

## Streamlined accreditation

(Q.40) Streamlined accreditation in the energy sector CDR, if considered, should apply rules with a level of scrutiny and oversight commensurate with other regulation in the sector. Given retailers as data holders comply with these standards, streamlining may be appropriate for them to become ADRs.

(Q.41) The AESCSF and existing information security obligations could apply to streamlining retailers (as data holders) as ADRs.

### **3. Estimating the regulatory cost of the CDR in energy**

We acknowledge the cost of CDR implementation and ongoing costs estimated by HoustonKemp in 2018. The wide cost range estimated by HoustonKemp at that time reflects the uncertainty facing stakeholders to implement the CDR in the energy sector.

We expect those cost estimates to have increased since this time, partly because retailers and other energy sector participants have committed significant resources to deliver recent rule changes impacting the National Electricity Market (in particular), including the implementation of:

- Five-minute settlement;
- Global settlement;
- The wholesale demand response mechanism;
- Reducing customer switching times; and
- Rule changes to address system security in the NEM.

The Commission is no doubt aware of this activity and the costs involved for energy market participants to implement and comply with these material changes. When we have more information about the scope of the CDR, Alinta Energy will be pleased to discuss cost estimates in confidence with the Commission. For this stage of the consultation, we are

unable to provide further information to the Commission but will provide additional information as estimates become clearer.