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By online submission

Dear Ms Court

CDR – Energy Rules Framework Consultation Paper – AEMO Submission

AEMO is pleased to make this submission on the Consumer Data Right Energy Rules Framework Consultation Paper (the framework).

AEMO supports the implementation of the Consumer Data Right (CDR) in the energy sector and considers that it will play an important role in increasing competition, driving innovation and, ultimately, in enabling consumers to realise value from their data. Access to energy data is an important next step in allowing consumers to develop a deeper understanding of, and a more mutually beneficial relationship with, the sector. With the rate of change in energy provision greater than ever before, CDR has an important role to play in supporting consumers during the energy transition. Through the offer of more highly informed choice, the CDR and consumer energy data access is an opportunity to ensure that individual consumer outcomes are as positive and valuable as possible.

Aligned with this core objective of delivering for consumers, AEMO is interested in ensuring that the scope and operation of the CDR in the energy sector is clear and achieves the goals of the CDR regime in the context of a new sector. Working with our membership base, AEMO is committed to working towards delivering a solution that is cost-effective, efficient and scalable - taking cost and complexity out of the energy sector, and providing tangible consumer outcomes and value. Accounting for the nature of the energy sector, the roles of existing participants and current levels of consumer engagement will be crucial in such a delivery.

AEMO notes that the CDR Rules for the energy sector will operate in parallel with existing co-operative, State-based National Energy Laws and National Energy Rules which underpin the operation of wholesale and retail energy markets. CDR implementation should therefore ensure consistency between the new CDR regime and the national energy arrangements to avoid any unintended consequences related to National Electricity Market (NEM) data and processes for its exchange which are essential to the operation and settlement of these markets. Consistency

will also ensure that all parties exposed to both regimes are clear on the obligations they are subject to and any confusion is avoided.

In addition, AEMO also notes that a crucial element of the CDR in the energy sector will be the role of AEMO as Gateway and as an intermediary, facilitating both the flow of information between retailers and accredited data recipients and prioritising the principle of cost efficiency through minimising the development of duplicated capabilities. The role and scope of the Gateway needs to be defined in a way that AEMO is able to implement and operationalise having regard to, among other things, its roles and responsibilities in the NEM, so that the benefits of the intermediated model can be maximised by taking cost out of the energy system while delivering value to end consumers.

Finally, AEMO is of the view that the CDR is a material step forward in standardising the process of consumer data access in the energy sector. Noting that, CDR should not prevent other mechanisms of consumers gaining access to their data, ways that may not conform to CDR framework but operate on a different basis.

In Attachment A to this submission, we provide detailed comments on the framework consultation paper. AEMO welcomes the opportunity to explore these issues in more detail with the ACCC during the CDR Rules development process.

For further information on the AEMO submission, please do not hesitate to contact myself or Luke Wines, Principal – Emerging Markets and Services on [REDACTED].

Yours sincerely



Violette Mouchaileh
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Attachments: CDR – Energy Rules Framework Consultation Paper – AEMO Submission

ATTACHMENT A: ENERGY RULES FRAMEWORK CONSULTATION PAPER – AEMO SUBMISSION

In responding to the Energy Rules Framework Consultation Paper (the “Framework”), AEMO has structured its response in two parts:

- 1 Section 1 presents a contextual summary of AEMO’s key positions; and
- 2 Section 2 provides answers to specific questions posed by the ACCC.

1 Section 1: Summary of the AEMO Position

1.1 Contextualising the CDR in the Energy Sector

With the overarching intention of the CDR in the energy sector to structure a solution that delivers positive consumer outcomes, AEMO considers it important that a series of key principles underpin its development. These would recognise that when approaching the design of the CDR Rules for the energy sector:

- (a) although AEMO and retailers have both been designated as Data Holders in relation to data relating to the sale and supply of electricity – they perform very different roles in the National Energy Market (NEM). That is:
 - (i) AEMO’s primary role is to perform the functions and exercise the powers given to it under national and West Australian electricity and gas laws. This includes overseeing the operations, facilitating markets, and settlement of the NEM; while
 - (ii) retailer’s (along with distributors) primary role is the sale and supply (along with distributors) of electricity to consumers. CDR Consumers within the NEM interact with (and are known to) the retailer and distributor but do not directly interact with and are not known by AEMO; and
- (b) although the CDR Data held by AEMO is directly related to the CDR Data held by a retailer for the sale and supply of electricity:
 - (i) as AEMO’s role relates to the operation and settlement of the NEM, it holds the CDR Data by reference to the National Metering Identifier (NMI) at the premise to which the electricity is supplied; while
 - (ii) as the retailer’s role relates to the sale and supply of electricity to a consumer, it holds and processes CDR Data by reference to both the identity of the CDR Consumer and the NMI at the premise to which the electricity is supplied.

As a result, unlike other Data Holders involved in the CDR in the energy sector, AEMO:

- (a) holds no personal information about the CDR Consumer – i.e. no information that identifies, or can be used to reasonably identify, the CDR Consumer for the CDR Data; and
- (b) has no direct relationship with any CDR Consumer (rather its relationships are with registered participants in the NEM).

Following broad engagement with market and consumer participants and consideration of the options for delivering key features of the CDR in the energy sector, AEMO does not consider that there is any reason to materially change this state of affairs in the design of the CDR Rules for the energy sector. The core proposition of the Gateway has always been to support and help facilitate the introduction of the CDR in the energy sector in the most efficient and cost-effective manner. This would reduce the total compliance burden on the sector and the costs borne by consumers, improving the outcomes experienced and increase the value able to be delivered. In meeting this objective, AEMO does not consider that as Gateway, it needs to or should collect personal information of CDR Consumers or create a direct relationship with them, and therefore supports the retention of the retailer-led model relationship between retailers and consumers in the context of the CDR in the energy sector.

1.2 AEMO's Four Key Positions

Given the above, and in line with the focus of the ACCC on ensuring interoperability within and across sectors and protecting the privacy of CDR Consumers, AEMO proposes that the four key principles that should inform the design of the CDR Rules in the energy sector are set out below. AEMO considers that these principles are critical to its ability to perform its Gateway role, supporting both industry and consumer outcomes in a way that is efficient, transparent, implementable and consistent with its broader roles and responsibilities under national energy laws.

- (a) CDR Consumers in the energy sector should interact with:
 - (i) the Accredited Data Recipient from whom they are requesting a service; and
 - (ii) retailers who are responsible for the sale or supply of electricity to the CDR Consumer.

The CDR Consumer should not be required to directly interact with AEMO (either as a Gateway or a Data Holder);

- (b) A CDR Consumer's current retailer should be responsible for supplying (and managing) the relevant CDR Consumer's dashboard, authenticating the CDR Consumer and collecting authorisations from the CDR Consumer;

- (c) Where a request from a CDR Consumer will require the disclosure of a CDR Consumer's CDR Data by AEMO:
- (i) the CDR Consumer should only be required to interact with one dashboard (that is hosted by their current retailer);
 - (ii) the current retailer's authentication of the CDR Consumer must authenticate the CDR Consumer for the purposes of both the release of CDR Data held by the retailer and the release of CDR Data held by AEMO as Data Holder; and
 - (iii) the authenticated CDR Consumer's authorisation for the release of CDR Data collected by the current retailer must apply to both the release of CDR Data held by the retailer and the release of CDR Data held by AEMO as Data Holder. Practically, in the case of AEMO, this means that authorisation should be tied to the type of CDR Data being requested to be provided to the Data Recipient; and
- (d) AEMO should not be required to interact with consumers as either the Gateway or Data Holder, and recognising that AEMO does not currently interact with consumers nor is it required under the national energy framework to collect or hold personal information relating to individuals:
- (i) AEMO should not be required by the CDR Rules to collect, or hold, any personal information relating to CDR Consumers as either the Gateway or Data Holder. The ACCC and DSB should explore data flows (between AEMO and retailers and between AEMO and Accredited Data Recipients) to support authentication and authorisation that are based on a combination of unique information relating to a transaction (for example the NMI, retailer ID and ADR ID) rather than the name or personal details of the CDR Consumer; and
 - (ii) the application of the Privacy Safeguards and other CDR obligations relating to the protection of personal information and consumer interactions should be modified to reflect the unique position of AEMO within the CDR in the energy sector as not holding personal information of CDR Consumers.

AEMO's submission in Section 2 (Responses to ACCC Questions) below explores these positions in further detail.

2 Section 2: Responses to the Specific Framework Issues

Framework Part 3: Approach to data sets in energy rules

2.1 Question: Do you agree with our proposed approach to data sets in the energy rules? Why or why not?

AEMO supports the ACCC's proposals that:

- the data sets outlined in the Designation Instrument must be further defined within the CDR Rules; and
- as AEMO is not the 'originator' of the AEMO-held data sets, the CDR Rules need to allow for specific arrangements that recognise the unique nature of AEMO-held data sets.

AEMO has provided further details below.

(a) AEMO-held data sets – CDR Rule Definitions

In accordance with the Designation Instrument, AEMO has been specified as the Data Holder for NMI Standing Data, Metering Data and DER Register Information. The definitions adopted for each of these data sets in the Designation Instrument are the broad definitions used within the National Electricity Rules (NER).

AEMO does not consider it appropriate that the CDR Rules adopt these definitions without delineation as they are designed for application in the NEM. Rather, AEMO requires CDR Rules that identify clear, and suitably limited, fields to provide clarity as to what CDR Data AEMO is in fact authorised and required to disclose under the CDR. We have set out the key considerations for what fields should be included, and what fields should be excluded, for each of these data sets below:

(i) NMI Standing Data

AEMO generally agrees with the ACCC's proposal to make CDR Rules that limit NMI Standing Data to specific mandatory fields outlined in the Framework.¹ However, AEMO does not consider it appropriate to include the full street address of the relevant connection point to which the NMI is referable. For completeness, AEMO has already provided a more detailed response to the individual proposed NMI Standing Data fields in the Data Standards Body Decision Proposal 109.²

¹ Framework, pages 12-13

² Consumer Data Standards Australia, Decision Proposal 109 – NMI Standing Data Payloads, <https://github.com/ConsumerDataStandardsAustralia/standards/issues/109>

AEMO further notes that the ACCC has proposed that an additional CDR Rule should be created that only NMI Standing Data that is current during the period for which the consumer has consented to share data should be shared.³ Before such a rule is made, AEMO suggests that the implications of limiting it to current data should be further investigated. NMI Standing Data reflects detail of a connection point at a point in time but, through time, the data is subject to change and such change impacts on the ability to interpret associated data, e.g. metering data. How this might impact a CDR consumer and the usefulness of their data for various use cases should be further considered.

(ii) Metering Data:

AEMO does not agree with the ACCC's proposal that the CDR Rules adopt the drafting of the Designation Instrument in full.

Subject to an exclusion for type 7 metering installations, the Designation Instrument has adopted the definition of Metering Data in the NER (i.e. "*Accumulated metering data, interval metering data, calculated metering data, substituted metering data, estimated metering data and check metering data*").

AEMO considers it is important that the Metering Data that AEMO is required to disclose is further delineated in order to ensure that there is certainty and clarity as to what information has to be collected and disclosed for the CDR in the energy sector. A lack of certainty and clarity would increase the costs of AEMO in performing its role as Data Holder. Accordingly, AEMO proposes that the CDR Rules definition of Metering Data at least excludes estimated metering data.

AEMO considers that for the CDR in the energy sector to benefit consumers, it has to give consumers access to 24 months of energy consumption at the NMI for the relevant premises, even if there has been a change in the CDR Consumer at the premises during that period. This is because providing seasonally adjusted energy usage at the relevant premises over this period will give consumers a better picture of the energy usage at the relevant premises than giving them energy usage over a shorter period.

(iii) DER Register Information

AEMO generally agrees with the ACCC's proposal that:

³ Framework, page 13

- (A) further determination is required as to which aspects of the DER Register should be in scope for sharing; and
- (B) the CDR Rules should explicitly exclude identifying information such as the installer identification field.

However, AEMO considers that the CDR Rules should also exclude any demand side participation information in the event that it was to be included in the DER Register in accordance with NER Rule 3.7E(2).

AEMO further notes that the ACCC has proposed that, similar to NMI Standing Data, only DER register data that is current during the period for which the consumer has consented to share data should be shared.⁴ Before such a rule is made, AEMO suggests that the implications of limiting it to current data should be further investigated. DER Register Information reflects detail of the DER attributes at a connection point at a point in time but, through time, the data is subject to change and such change impacts on the ability to interpret associated data, e.g. metering data. How this might impact a CDR consumer and the usefulness of their data for various use cases should be further considered.

(b) AEMO-held data sets – Nature of the data sets

AEMO only holds NMI Standing Data, Metering Data and DER Register Information as a result of, and for the purposes of, complying with the National Electricity Law and National Electricity Rules (i.e. the 'national electricity framework'). As recognised by the ACCC, this means that AEMO is not the 'originator' of the data, is generally reliant on other parties for the provision and accuracy of those data sets, and the data is subject to the national electricity framework.⁵

As a consequence, AEMO agrees with the ACCC that specific arrangements must be included within the CDR Rules that recognise the unique nature of AEMO-held data sets. In particular, AEMO proposes that these specific arrangements:

- (i) for the purposes of Privacy Safeguards 11 and 13:
 - (A) deem AEMO-held data sets, by virtue of being held for the purposes under the National Electricity Law and National Electricity Rules, to be accurate, up to date and complete for the purposes of Privacy Safeguard 11; and

⁴ Framework, page 14

⁵ Framework, page 11

- (B) do not require AEMO as Data Holder to correct CDR Data under Privacy Safeguard 11 or 13. This is a reflection both of the limitations on amending data under the National Electricity Rules and of the fact that AEMO should not be required to interact with CDR Consumers. If a CDR consumer has concerns about AEMO-held data sets it is more appropriate than any queries are directed to the retailer who, if necessary, may consult with AEMO; and
- (ii) acknowledge that AEMO may not always hold the relevant CDR Data (for example, if it is not provided to AEMO by the relevant third party).

2.2 Question: 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 particular sensitive data be explicitly excluded from the proposed data sets?

In considering whether any data should be subject to specific arrangements, AEMO notes that all data is able to be contextualised by other data sets, and this creates the potential for combinations to become more sensitive than the constituent elements by themselves. This eventuality needs to be considered such that unintended consequences do not materialise.

Furthermore, the consumer experience (CX) research AEMO conducted found that consumers:

- (a) were less sensitive about sharing their current plan details such as tariffs, service charges and offered discounts;
- (b) are very sensitive to sharing their personal data (both billing and customer details) as they see most benefit to be had by sharing their electricity usage and current plan data; and
- (c) are particularly concerned with sharing their financial status (especially hardship), the details of the concession reason (but not the concession status itself), their medical status (life support or otherwise) and financial assistance plans and information that can indicate this (payment history).

AEMO thus suggests that the data referenced in (c) above be unbundled from the billing data set that consumers are more sensitive to. This could support use cases such as consumer collective bargaining services and comparison without needing to consider disclosure of data deemed sensitive by consumers, which may lead to erosion of trust within the ecosystem.

Framework Part 4: Approach to the rules, standards and privacy safeguards to accommodate the gateway data access model

2.3 Question(s): Do you consider the proposed approach to the gateway rules, standards and privacy safeguards appropriate for CDR in energy? If not, which aspects of the approach should be reconsidered or amended, and why?

AEMO agrees with the following aspects of the ACCC's preliminary proposed approach for the operation of the Gateway:⁶

- (a) the role of the Gateway is to facilitate the transfer of CDR Data between Data Holders and Accredited Data Recipients;
- (b) the Gateway should not be required to collect or hold any CDR Data it receives from a Data Holder for the purposes of acting as the Gateway unless it is necessary to facilitate its gateway function;
- (c) the Gateway has a role in authenticating the Accredited Data Recipient using the ACCC Register and confirming the identity of the current retailer supplying electricity to a particular premise;
- (d) the CDR Rules need to be amended to introduce new, and amend existing, rules to appropriately accommodate the role of AEMO as the Gateway. This includes amending the existing obligations imposed on Data Holders where appropriate. However, as outlined in further detail below, AEMO does not agree with the proposition that the requirements on AEMO as a data holder should be broadly consistent with the existing Data Holder requirements. Please see pages 14 to 16 below for more details of AEMO's position; and
- (e) although AEMO's roles of Gateway and Data Holder are separate as considered by the law and rules, AEMO may support its obligations using the same mechanisms.

However, as the designated Gateway for the CDR in energy, AEMO proposes that the following features must also be built into the design of the Gateway role and reflected in the CDR Rules:

- (f) CDR Consumers are to have no direct interaction with the Gateway – this means that AEMO should not play a role with authenticating CDR Consumers or in the collection, or management, of authorisations and dashboards;
- (g) the Gateway should not collect, or hold, any personal information – rather each interaction should be based on a combination of unique information relating to

⁶ Framework, pages 16 and 20

a transaction (for example the NMI, retailer ID and ADR ID) rather than the name or personal details of the CDR Consumer; and

- (h) the Gateway shall not be obliged to implement CDR specific dispute resolution mechanisms or to otherwise deal directly with CDR Customer complaints – rather any complaints or disputes should be directed (in line with the CDR in banking) to the relevant Accredited Data Recipient or retailer (as applicable) who may consult, if necessary, with the Gateway for further information.

As a consequence, AEMO broadly supports the ACCC’s proposal for the operation of the Gateway as outlined in Figure 2. In particular:

- (a) Steps 1 and 2: No comment.

- (b) Step 3 (Confirmation of Accreditation)

AEMO supports the Gateway confirming the validity of an Accredited Data Recipient’s accreditation status against the ACCC Register before passing the data request to the current retailer. To support this position, the Gateway will require the ability to reject a request if the accreditation check fails.

- (c) Step 4 (Identification and communication with Data Holder)

AEMO supports the Gateway:

- (i) identifying (or confirming if applicable) the current retailer responsible for the sale or supply of electricity to a particular NMI; and
 - (ii) passing the consumer data request to that identified retailer.
- (d) Step 5 (Authentication and Authorisation)

As retailers already engage with consumers within the energy sector, AEMO supports:

- (i) the current retailer being responsible for:
 - (A) establishing, and maintaining, a CDR Consumer’s Data Holder dashboard (noting that each CDR Consumer shall only have one dashboard that relates to the supply of electricity to their premise);
 - (B) for authenticating the CDR Consumer on behalf of itself and AEMO as Data Holder; and

- (C) for collecting the relevant authorisations from CDR Consumer on behalf of the current retailer and AEMO as Data Holder; and
- (ii) the Gateway having no role in the above (including but limited to having no direct interactions with any CDR Consumer).

AEMO has provided further detail in relation to these points in its responses to the relevant questions below.

- (e) Step 6 – Consolidation and transfer to Accredited Data Recipient by Gateway

AEMO supports the Gateway:

- (i) receiving confirmation from the current retailer that the CDR Consumer:
 - (A) is an eligible CDR Consumer for the CDR Data held by both the retailer and AEMO; and
 - (B) has provided a valid authorisation for the retailer and/or AEMO as Data Holder (if applicable) to release the relevant CDR Data to the requesting Accredited Data Recipient;
- (ii) notifying AEMO as Data Holder of the existence of valid authorisation to disclose the relevant CDR Data;
- (iii) receiving, and transferring, the appropriate CDR Data from both the current retailer and AEMO as Data Holder to the relevant Accredited Data Recipient; and
- (iv) notifying the current retailer (and if applicable AEMO as Data Holder) that the CDR Data has been disclosed to the relevant Accredited Data Recipient.

AEMO notes that the provision of the authorisation will be key in this process. AEMO suggests it could be passed in a tokenised format with necessary security controls.

AEMO further notes that there will be circumstances where a consumer CDR Data request cannot be met – for example if:

- (i) the current retailer does not receive valid authorisation;
- (ii) the current retailer refuses to ask for an authorisation or fails to authenticate the CDR Consumer;

- (iii) AEMO as Data Holder does not obtain confirmation from the retailer of the relevant authentication and authorisation; or
- (iv) AEMO as Gateway refuses to transfer the relevant CDR Data (for example, if it has reasonable grounds to believe the disclosure or transfer will adversely impact the security, integrity or stability of the Register of Accredited Persons or the Gateway's IT systems).

In these situations, negative responses will be required to flow between the relevant CDR Participants including to the Accredited Data Recipient and to the current retailer so the CDR Consumer can be notified.

With regards to transfer of the CDR Data itself between Data Holders and the Accredited Data Recipient, AEMO considers that the management of this information needs to be determined, balancing the needs of the technical solution, the requirements from an auditing and reporting perspective and the risks associated with persistence of the data.

(f) Step 7 – Additional data flows

AEMO notes that additional data flows related to the transfer of the CDR Data will be required between the various CDR Participants. For example:

- (i) AEMO as the Gateway will need to notify the current retailer when CDR Data has been disclosed to an Accredited Data Recipient to facilitate the current retailer updating the relevant CDR Consumer's dashboard on behalf of the retailer and AEMO; and
- (ii) the current retailer will need to notify AEMO as the Gateway of any changes to their authorisation by the CDR Consumer. This is especially important for authorisations over a period of time as AEMO as the Gateway needs to be advised if the authorisation(s) has been withdrawn.

AEMO considers that a clear definition of roles and responsibilities in communications and updates in this context is key.

(g) Additional Obligations on the Gateway

AEMO further notes that the ACCC proposes to make CDR Rules requiring AEMO as the Gateway to comply with obligations relating to request for information by the Accreditation Registrar, record keeping and reporting. However:

- (i) with regards to complying with requests made by the Accreditation Register, AEMO considers that the Data Holders (other than AEMO)

and/or Accredited Persons are best placed to provide information to the Accreditation Register in relation to the information listed in Rule 5.25. As a result, it is not necessary for AEMO as Data Holder or as the Gateway to also be subject to Rule 5.25; and

- (ii) with regards to record-keeping and reporting for AEMO as the Gateway, AEMO proposes that this is considered in further detail once the Gateway processes have been agreed in principle. However, at a minimum, the Gateway should not be required to:
 - (A) record and report on CDR complaint data – as AEMO as the Gateway (or in fact as the Data Holder) has no relationship with consumers, and in fact is invisible to them, CDR Consumers should direct any complaints to the current retailer hosting the dashboard. AEMO as the Gateway will keep records of its interactions with the retailers in relation to CDR complaints;
 - (B) respond to requests from a CDR consumer for copies of records held by AEMO as Data Holder or as Gateway; or
 - (C) collect or hold personal information – rather, AEMO would suggest a unique CDR ID (for e.g. consumer CDR ID) could be devised that could be used to associate records with a CDR Consumer without requiring the Gateway to collect or hold personal information. The ID could be used in conjunction with the NMI, retailer ID and ADR ID. AEMO acknowledges that further consideration will be needed as to how that ID would migrate if a CDR consumer switches retailer but remains at the same premise. However, in principle, this is a function the Gateway could facilitate if a mechanism is developed to account for the consumer - retailer relationship changing.

(h) AEMO obligations as a Data Holder

AEMO notes that, on page 20 of the Framework, the ACCC proposes that *"the requirements on AEMO as a data holder of the data sets outlined at table 1 should be broadly consistent with the existing data holder requirements in the current Rules."* AEMO does not agree with this proposal and does not think it is workable in the context of AEMO's role in national energy laws.

Currently, the CDR Rules are structured around the concepts that each Data Holder:

- (i) already holds information that identifies, or reasonably identifies, a CDR Consumer;

- (ii) provides a service directly to, or otherwise already interacts with, a CDR Consumer; and
- (iii) will continue to directly interact with a CDR Consumer in the CDR itself – for example, through the hosting and provision of a dashboard.

As these concepts do not hold true for AEMO as Data Holder, and on the basis that the current retailer should be responsible for holding and managing a CDR Consumer’s dashboard in relation to authentication and authorisation for both that retailer and AEMO as Data Holder, it is duplicative and economically inefficient for AEMO to be also required to maintain a dashboard for CDR Consumers. Equally, maintaining a dashboard for CDR Consumers is inappropriate and inconsistent with AEMO’s current role and responsibilities under national energy laws which do not involve AEMO collecting, using or disclosing personal information about energy consumers. Accordingly:

- (i) all obligations relating to the collection of authorisation, provision and management of the dashboard and notification of the CDR Consumer should not be directly applicable to AEMO as Data Holder. Rather, AEMO should be able to rely on the current retailer to authenticate the CDR Consumer for a particular NMI and premises, to obtain the authorisation from that CDR Consumer for the disclosure of their CDR Data, and to notify the CDR Consumer of the disclosure of their CDR Data (for the purposes of Privacy Safeguard 10);
- (ii) as AEMO as Data Holder has no direct interactions with the CDR Consumer (and the CDR Consumer will be unlikely to know who or what AEMO’s role is), AEMO should not be subject to the same internal dispute resolution process or complaint related obligations as other Data Holders. AEMO’s practices, procedures and systems to deal with inquires or complaints would be designed such that any contact from a CDR consumer should in the first place be directed to the retailer hosting their dashboard or the relevant Accredited Data Recipient. AEMO will have appropriate dispute resolution practices, procedures and systems to deal with inquires or complaints from retailers or Data Recipients, which may originate from a complaint by a CDR consumer; and
- (iii) specific arrangements must be included within the CDR Rules that recognise the unique nature of AEMO-held data sets. These are set out in more detail at pages 8 and 9] above – however, in summary - for the purposes of Privacy Safeguards 11 and 13, AEMO-held data sets, by virtue of being held for the purposes under the National Electricity Law and National Electricity Rules, should be deemed to be accurate, up to

date and complete and AEMO as Data Holder should not be required to correct CDR Data as a result of a request from a CDR consumer.

2.4 **Question: 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?**

AEMO believes that the consistent application of the information security obligations and protections in Schedule 2, Part 2 of the Rules achieves the aim of establishing a common CDR across industries and is more appropriate for the functionality of the gateway than the AESCSF.

While AEMO will design and build the gateway, the gateway will be technologically separate from, but will retrieve data from, AEMO's existing systems used to operate Australia's energy markets. The information security obligations and protections in Schedule 2, Part 2 of the Rules are easily incorporated into the design of, and implemented into the build of, the gateway, which AEMO notes does not include personally identifiable information.

The AESCSF is a cyber security capability maturity model whose purpose is to uplift the security and resilience of critical energy infrastructure amongst energy market participants to ensure the integrity and reliability of energy supply in the face of increasing cyber-attacks. Unlike the minimum information security controls set out in Schedule 2, Part 2 of the Rules, the AESCSF does not prescribe specific controls and serves for AEMO's existing systems.

The AESCSF is focussed on developing cyber security maturity and provides a foundation for energy market participants to:

- (a) assess their current state cyber security capability and maturity in a standardised manner;
- (b) evaluate, prioritise and make informed decisions when defining roadmaps of prioritised improvements required to be taken to uplift cyber security capability and maturity to achieve a target state of becoming resilient in the face of a cyber-attack; and
- (c) upon reaching a target state, continuously monitor and feedback on compliance and situational awareness for managing cyber security incidents.

AEMO believes that the information security obligations and protections in Schedule 2, Part 2 of the Rules are appropriately applied to AEMO in the same way as other critical infrastructure sectors such as banking and telecommunications, given:

- (a) the Australian Government intends to introduce an enhanced regulatory framework for critical infrastructure sectors as part of its recently released “Australia’s Cyber Security Strategy 2020”;
- (b) consultation is currently underway on the reforms outlined in the Protecting Critical Infrastructure and Systems of National Significance Consultation Paper with submissions due by 16 September 2020; and
- (c) as one of a number of critical infrastructure sectors, the energy sector and the (currently voluntary) AESCSF may be impacted by these reforms.

2.5 Question: Should the gateway be subject to obligations relating to the privacy safeguards, beyond what is set out in Part 7 of the current Rules?

The ACCC currently expects that requirements placed on the Gateway regarding the applicable privacy safeguards will be broadly consistent with the current Rules under Part 7.⁷

However, as the Gateway should not be required to interact with CDR Consumers nor hold any personal information, the application of Part 7 to the Gateway (and the consequential method by which the Gateway will comply with Privacy Safeguards 1, 6, 7 and 12) will need to reflect this position.

For example:

- (a) Privacy Safeguard 1 – As AEMO (as Gateway) has no direct interactions with the CDR Consumer (and it will be unlikely the CDR Consumer will know who or what AEMO’s role is), a modified (and simplified) method for dealing with complaints from CDR Consumers is applicable for AEMO whereby AEMO’s practices, procedures and systems for dealing with inquiries or complaints from a CDR consumer are designed so that the inquiries or complaints are directed to the retailer hosting their dashboard or the relevant Accredited Data Recipient in the first instance. AEMO will have appropriate dispute resolution practices, procedures and systems to deal with inquiries or complaints from retailers or Accredited Data Recipients, which may originate from a complaint by a CDR Consumer; and
- (b) Privacy Safeguard 12 – AEMO supports the ACCC’s position that the Gateway’s role is in facilitating, rather than holding, CDR Data that it is transferring between a Data Holder and Accredited Data Recipient. This, combined with the fact that AEMO should not be required to hold any personal information as

⁷ Framework, page 22

either a Gateway or Data Holder, means there should be no CDR Data that AEMO is holding as Gateway that requires deletion or de-identification.

AEMO further notes, and supports, the ACCC's position that it will conduct a final review of the role of privacy safeguards once appropriate decisions regarding the design and functionality of the Gateway are finalised.

2.6 Question: 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)?

AEMO considers the role of the Gateway in facilitating the transfer of CDR Data will be effectively the same if the CDR Data is mandatory or voluntary.

However, AEMO suggests that the voluntary or mandatory nature of the CDR Data must be clearly and appropriately flagged. Additionally, the Gateway will require appropriate provisions for notifying the Accredited Data Recipient if a request for voluntary data is rejected by the applicable Data Holder.

2.7 Question: Do you agree with our approach to determining an eligible CDR consumer? Why or why not? What additional factors should we consider?

AEMO generally agrees with the overall approach of the ACCC to defining who is an eligible CDR consumer for the energy sector. For example, AEMO supports:

- (a) that the approach to who is an eligible CDR consumer should be based on the position that it is retailers who are in the best placed to support interactions with CDR consumers (including through the provision of the dashboard and due to the pre-existence of customer facing support services such as internal dispute resolution mechanisms and call centres);
- (b) that the concept of eligible CDR consumer should be broad enough to recognise that a retailer may be able to authenticate and seek authorisation from multiple 'consumers' who reside at a premise and are consuming the same electricity supply;
- (c) if the CDR consumer's account has been linked to multiple premises that have been previously supplied over the period the account has been active, the consumer will only be able to request the sharing of data relating to their current premises;
- (d) CDR consumers should have the ability to request metering data in relation to the same active premise for the previous 24 months period regardless if the CDR Consumer has an 'active' account with the authenticating retailer for that period or they have 'switched' retailers during the previous 24 months. In such a situation, and as AEMO cannot verify whether a CDR Consumer is linked to a particular NMI for the relevant time period, a CDR Rule should be introduced

that clarifies that AEMO (as Data Holder) can rely upon a CDR Consumer's authorisation to release metering data relating to the entire 24 month period;

- (e) that the CDR Rules should not limit consumers who do not have an online account with a retailer from being eligible CDR consumers. However, AEMO cannot perform its Gateway role in interacting with retailers and Data Recipients except on a digital basis. As such, AEMO's support of this proposal assumes that an "offline" customer is a CDR Consumer who does not have an existing online account – and in this case it is up to the retailer to appropriately authenticate and authorise the disclosure of their CDR Data, and then to provide confirmation of those matters to AEMO as Gateway in the usual manner. AEMO does not support any mechanism for CDR involvement which is completely divorced from digital tools as this would require careful assessment of the size of such a cohort of consumers, the relatively cost of their inclusion and benefits to them in what is fundamentally a digital data-sharing regime.

AEMO repeats that any approach that is taken by the ACCC to determining who is an eligible CDR consumer must also take into consideration the fact that:

- (f) AEMO does not hold any information that identifies, or could reasonably identify, a CDR Consumer – rather, the design of the NEM is that this information (and the consumer facing interactions) are held by other participants in the NEM (primarily the retailers and distributors). As a consequence, it should not be the role of AEMO, either as the Gateway or Data Holder, to determine whether an individual is in fact an eligible CDR consumer; and
- (g) AEMO cannot identify whether a particular CDR Consumer is linked to a particular premise (including if they have moved) – and thus cannot be responsible for confirming whether CDR Data is 'about' a particular CDR Consumer.

2.8 Question: Is our proposed approach to facilitating data sharing for joint accounts appropriate for the energy sector?

AEMO agrees with the treatment of joint account holders as individual primary account holders, if the retailer can identify each account holder separately and appropriately authenticate them and obtain appropriate authorisation for disclosure of their CDR Data.

AEMO would however note that further work must be undertaken to determine whether joint account holders should share a single dashboard or whether they would require separate dashboards.

2.9 Question(s): Do you agree that data holders should be able to rely on a single authentication carried out by another data holder? Do you agree with our preference to implement Model 1 as the authentication model for CDR in energy?

In contrast to the banking sector, the approach to authentication in the energy sector must reflect two fundamental differences:

- (a) AEMO, as a Data Holder, is a participant-facing market operator rather than a consumer-facing service provider. As outlined in section 1 above, this means that AEMO has no relationship with any CDR Consumer and holds no information that can identify nor authenticate a CDR Consumer; and
- (b) It is likely that most consumer data requests in energy will require CDR Data from both a CDR Consumer's current retailer and AEMO as Data Holder.

As a result, AEMO supports the ACCC's preference to implement Model 1 as the authentication model for the CDR in energy. AEMO also supports the following proposals by the ACCC:

- (c) authentication of a CDR Consumer should be undertaken wholly by the current retailer with whom the CDR Consumer has an existing relationship. This will allow the retailer to leverage existing consumer authentication processes and existing information for consumer authentication; and
- (d) a CDR Consumer in the energy sector should not be required to authenticate with multiple data holders for a single electricity supply service. If the current retailer successfully authenticates a CDR Consumer and obtains authorisation for the disclosure of their CDR Data, AEMO must be able to rely upon that authentication and authorisation for the disclosure of AEMO data.

AEMO notes that the ACCC has also suggested that Accredited Data Recipients should be required to provide sufficient information to the current retailer (via the Gateway) to enable the current retailer to authenticate the CDR Consumer to "*mitigate the risk of data being disclosed inappropriately, for example if there is a mismatch between such as the NMI held by the data holder and the gateway.*" AEMO recommends that further consideration is provided to ensure that there are clearly articulated outcomes if this was to occur. For example, as Gateway, AEMO will be confirming who the financially responsible market participant (the 'FRMP') is for a particular NMI. In most cases this will be the current retailer. However, where the FRMP does not align with the 'retailer' (for example if a reseller relationship is in place between the CDR Consumer and the FRMP), the CDR Rules should allow the Gateway to reject the consumer data request.

2.10 Question: 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?

AEMO does not consider that it is appropriate for the CDR Rules to mandate two alternative authentication models. The benefit of Model 1 is that it provides *“the flexibility for market-led solutions for outsourced consumer authentication services to be developed and offered to retailers in future”*.⁸

2.11 Question: Of the three options for data holder dashboards, which do you prefer and why?

AEMO supports the ACCC’s proposals that:

- (a) one party should be responsible for providing the dashboard in relation to all energy consumer data requests for a consumer in relation to the consumer’s current electricity supply;
- (b) the consumer will only need to engage with one dashboard to manage their authorisations for the energy sector; and
- (c) that the dashboard is provided by the consumer’s current retailer.

Of the three options for data holder dashboards, AEMO supports Option 1 (i.e. the dashboard is to be provided by the CDR Consumer’s current retailer for all energy consumer data requests related to the CDR Consumer) along with the associated CDR Rule changes that will allow AEMO to rely upon the actions of the retailer in authenticating and collecting the authorisations, and updating the dashboards, in the event of a disclosure by AEMO as Data Holder.

Model 1 not only maintains and reinforces the existing relationship between a retailer and their consumer but will enable the CDR in energy to be delivered without requiring AEMO (as either Data Holder or Gateway) to directly interact with CDR Consumers or to collect or hold personal information about CDR Consumers and, if applicable, allows a retailer to choose to engage a third party provider. However, AEMO does acknowledge that such a model will potentially increase the cost barrier for smaller retailers as it means that each CDR Consumer must be provided with a dashboard by their current retailer.

Consequentially, if it will result in economic efficiencies and reduced costs for retailers, AEMO considers that there could be merit in further exploring the concepts behind the ACCC’s Option 3. That is, although the retailers will provide the dashboard and will interact directly with the CDR Consumer to collect (and amend) authorisations, AEMO could support retailers through the provision of an authentication API. In other words,

⁸ Framework, page 35

although the retailers would collect the authorisation directly from a CDR Consumer and disclose it to AEMO, the retailers would present that authorisation (both for the retailer's data sets and AEMO-held data sets) in the CDR's Consumer's dashboard based on the information provisioned by the standardised APIs created by AEMO. This information would reflect the authorisation information AEMO originally received from retailers. The specific nature and detail of the information that AEMO would store to facilitate this model would need to be further developed but AEMO considers it would involve the necessary IDs (or other attributes) required to uniquely represent an authorisation but would not involve AEMO collecting or holding any personal information of the CDR Consumer. For example, an option could be to develop a valid unique authorisation which might contain the NMI, an ADR ID and a retailer ID which would then be stored with other necessary attributes such as which data sets that are part of the authorisation and the duration.

By including a Gateway supported API within the authorisation process, AEMO considers that:

- (a) it allows AEMO to support retailers without requiring AEMO to interact directly with CDR Consumers or to hold personal information about CDR Consumers;
- (b) it supports the persistence of authorisation data in a CDR Consumer's dashboard when they switch retailers (and thus have a new Dashboard created by the new retailer);
- (c) it may promote the standardisation across the various dashboards offered by retailers; and
- (d) it may assist in reducing the cost for smaller retailers who join the CDR at a later date.

However, AEMO's support of such a model is predicated on the need for further exploration of how an AEMO provided API will work (including ensuring that, in providing such a service, AEMO is not required to comply with the same obligations for the 'authorisation data' that is applicable to 'normal' CDR Data). Careful consideration will also be needed to ensure that any changes to the dashboard by the CDR Consumer are suitably notified to the Gateway (especially in the event of authorisations that persist over a period of time).

For completeness:

- (a) AEMO would recommend that further consideration is given to whether multiple dashboards, primarily in the context of joint account holders, that are linked to the same premise should be supported or not;

- (b) AEMO does not support the CDR Rules mandating multiple approaches to dashboards; and
- (c) with regards to CX research, AEMO's research suggests that consumers prefer an opt-in and flexible data transaction receipt model within the energy sector as opposed to a mandatory authorisation dashboard. AEMO would suggest that the ACCC consider undertaking further investigation to understand the value of the dashboard to consumers and consider whether alternative lower cost and friction models could meet the policy requirements underpinning the dashboard inclusion.

In particular, AEMO considers that the ACCC should consider the role of the dashboard when an ADR's service is based upon the need for ongoing data requests over a period of time. If a consumer switches retailer and the consumer is required to reconse to the provision of their data in order to continue accessing the same service from the ADR, that ADR's ability to meaningfully offer a consumer service that utilises a going CDR consent may be affected.

2.12 Question: 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?

AEMO does not agree with the ACCC's proposed approach that AEMO – both as Data Holder and as the Gateway – should be subject to internal dispute resolutions (IDR) requirements.

As recognised by the ACCC, requiring AEMO to comply with IDR requirements is *"contingent on the extent to which consumers are aware of the gateway's role in facilitating data sharing."*⁹ As noted above, as CDR Consumers will:

- (a) have no direct interactions with AEMO either as a Gateway or a Data Holder; and
- (b) not be aware of the role that AEMO is playing within the CDR either as a Gateway or a Data Holder,

AEMO should not be required to implement CDR specific dispute resolution mechanisms or to otherwise deal directly with CDR Customer complaints to IDR requirements as either a Gateway or Data Holder. Rather, as noted above, any inquiries or complaints from a CDR Consumer should in the first place be directed to the retailer hosting their dashboard or the relevant Accredited Data Recipient. AEMO would however have appropriate dispute resolution practices, procedures and systems to deal

⁹ Framework, page 42.

with inquiries or complaints from retailers or Accredited Data Recipients, which may originate from a complaint by a CDR consumer.

For completeness, AEMO notes that the proposed IDR mechanisms suggested by the ACCC as being suitable for the energy sector (i.e. s81 of the National Energy Retail Law and clause 59A of the Energy Retail Code (Victoria)) are not applicable to AEMO.

In a similar vein, AEMO would suggest that any consideration of external dispute resolutions mechanisms applicable to the energy sector take a similar position as above and recognise that AEMO has no direct interactions with CDR Consumers and they are not aware of AEMO's role.

2.13 Issues relating to phasing

AEMO acknowledges the ACCC has proposed:

- (a) adopting a phased approach for the sequencing of retailers, by bringing the largest retailers into the regime initially and then phasing in remaining retailers above a customer number threshold; and
- (b) excluding small retailers below a customer number threshold from data holder obligations until they exceed the threshold or choose to come into the regime voluntarily.

Before making a decision on phasing, AEMO considers there is a need for the ACCC to undertake an assessment of the relative value of rolling out the CDR in the energy sector. The proposed approach centres on the assumption that obliging the large number of retailers in the NEM with relatively few customers to participate in the CDR will lead to greater cost than benefit. AEMO agrees with this assumption in principle but more work needs to be conducted to understand the materiality of this issue, and in the event it is material, what the key drivers for this are.

As an alternative approach, AEMO considers that phasing by data set is likely to deliver more value in shorter timeframes than the documented approach by Data Holders. The greatest definable value in sharing energy data is in understanding patterns of consumption and is thus centred on metering data and the associated NMI Standing Data. The ACCC needs to consider how the value in consumers better understanding their own behaviour can be realised for the benefit of those consumers.

As a consequence, AEMO supports the progressive phasing which focuses on product data first followed by AEMO-held data sets and then retailer-held data sets at a later date. This phasing would not limit consumer choice as consumer and financial data can be provided separately to the CDR data collection.

2.14 Issues relating to accreditation

At a high level, a multi-tier accreditation approach could be supported by the Gateway model but AEMO recommends that any changes in accreditation is carefully considered to take into account suitable restrictions on how restricted ADRs utilise energy data. Any changes to the accreditation regime need take into consideration the value of the services an ADR provides to CDR Consumers and how the value of such services can be maximised relative to maintaining an appropriate position on applicable risks.