

22 March 2019

Australian Competition and Consumer Commission  
ACCC-CDR@accc.gov.au



Dear Sir/Madam

**Consumer Data Right in Energy Consultation Paper: Data access models for energy data**

Energy Queensland Limited (Energy Queensland) welcomes the opportunity to provide comment to the Australian Competition and Consumer Commission (ACCC) on its *Consumer Data Right in Energy Consultation Paper: Data access models for energy data* (the Consultation Paper).

This submission is provided by Energy Queensland, on behalf of its related entities, including:

- Distribution network service providers (DNSPs), Energex Limited (Energex) and Ergon Energy Corporation Limited (Ergon Energy Network);
- A regional service delivery retailer, Ergon Energy Queensland Limited (Ergon Energy Retail); and
- Affiliated contestable business, Yurika Pty Ltd (Yurika) including its subsidiary Metering Dynamics Pty Ltd (Metering Dynamics).

Energy Queensland is committed to serving the needs of its customers and supports a customer's right to access their data enabling them to make informed decisions in respect to their energy supply needs.

To this end, the Energy Queensland businesses in January 2019 signed on as foundation members to the industry-wide Energy Charter, which is intended to progress the culture and solutions required to deliver a more affordable, reliable and sustainable energy system for all Australians. In particular, the Energy Charter makes clear the need for energy businesses to empower customers by providing them with access to insightful and useful information, and to streamline access to, and portability of, customer energy data.

Energy Queensland also participates in open data practices which, subject to compliance with applicable laws, allow for the provision of trusted data and analytics to our people, customers and communities. Of interest is our intent to extend the publishing of data sets which are available to our customers and partners for use in research and innovation, and in the development of new technological and commercial opportunities.

Energy Queensland has also undertaken significant investment in customer portals which allow customers to source usage data, cost and other financial transactions such as rebates, tariff optimisation and daily usage analysis.

Energy Queensland is therefore of the view that our actions and achievements to date are aligned with the underlying intent and principles of the Consumer Data Right (CDR). It is through our existing processes and commitments that we have obtained valuable insights into customer expectations around data and how it should be provided and presented.

However through our experience to-date, we are also of the view that the timeframe to apply the CDR to the energy sector by mid-2020 appears tight, particularly given the need for consideration of the detailed framework. While we understand the ACCC is seeking to balance implementation issues with a customer's right to access their data, we urge the ACCC to take sufficient time to ensure the CDR does not risk an individual's right to privacy; that existing obligations under the National Electricity Law (NEL), National Energy Retail Law (NERL) and associated Rules are amended to ensure there is no duplication of required data sets in multiple formats; and potential establishment and operational costs are further assessed to determine the potential benefits and costs of implementation of each of the proposed models.

We are also concerned that delivering the CDR while other significant legislated changes (such as five minute settlements) are being simultaneously delivered will impact the ability of data providers to remain compliant with all legislated obligations.

Without understanding customer demand for the CDR, it has been difficult to undertake a comprehensive assessment of the costs and benefits of each of the models proposed. Energex, Ergon Energy Network and Ergon Energy Retail have therefore identified different concerns and views on each of the models proposed by the ACCC in its Consultation Paper, relying on their experience and expertise in providing customer data as required by the NEL and the NERL to guide their views.

The businesses are united in their expectation that the CDR model chosen must support an open marketplace, avoid unnecessary cost and duplication, mitigate risks (particularly as they relate to privacy), and allow for the consolidation of fragmented energy data so it may be used to facilitate opportunities and products that benefit customers and market participants across the National Electricity Market (NEM). Equally they are of the view that the data provided to customers must be comprehensible by the customer to ensure it is of the intended value.

For these reasons, Ergon Energy Network and Energex give in-principle support to the Gateway Model (Model 2), as it:

- utilises existing Australian Energy Market Operator (AEMO) infrastructure and arrangements, and existing Information Technology (IT) infrastructure and capabilities such as the functionality provided by AEMO's Business-to-Business e-hub and
- supports a coordinated data approach consistent with the need for an orchestrated future (for example, coordinated system management and the unlocking of value across the value chain in a future with a high penetration of distributed energy resources).

Ergon Energy Retail also supports open access to data by customers, but is strongly of the view that customers should be in control of the data which is made available, and of any associated opt-out process. As the holder of a significant proportion of the data likely to be the subject of the CDR, Ergon Energy Retail has identified several concerns and risks relating to confidentiality and privacy of consumer data, and implementation and maintenance costs of the Gateway Model, particularly while customer demand for the service remains unclear.

Ergon Energy Retail is therefore of the view that these issues must be addressed before it can provide clear support for this model. Should these issues remain unresolved, then Ergon Energy Retail has a preference for the Economy Wide Model (Model 3). Additional detail in relation to Ergon Energy Retail's concerns is outlined in our responses to the Consultation Paper questions attached to this submission.

Regardless of the model ultimately adopted, Energy Queensland is of the view that the protection of an individual's privacy and cyber security must be core to the CDR. For each of the models, the CDR framework must ensure:

- information security is robust and adequately protects a customer's personal information from fraud, unauthorised access or malicious attacks
- all potential privacy risks are sufficiently mitigated
- stakeholders under the proposed model comply with their obligations under the *Privacy Act 1998 (Cth)*, and in particular Australian Privacy Principle (APP) 11 which requires APP entities to take active measures to ensure the security of personal information they hold and
- enforcement rights and penalties for non-compliance are enacted and reflect the severity of a privacy breach.

While Energy Queensland supports the concept of the CDR, we are of the view that further work needs to be progressed on the models to address these and other security concerns before it is introduced into energy.

Should you require additional information or wish to discuss any aspect of this submission, please do not hesitate to contact myself or Andrea Wold on (07) 3664 4970.

Yours sincerely



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*Encl: Energy Queensland's response to Consultation Paper Questions*

ACCC Question	Energy Queensland response
<p><b>Question 1:</b></p> <p>Are there any other assessment criteria or relevant considerations which the ACCC should use to determine a preferred model for consumers to access their energy data under the CDR?</p>	<p>Energy Queensland is of the view that the volume of customers likely to avail themselves of the CDR may be relatively small when compared to its total customer base. A review of Ergon Energy Retail’s customer base suggests that on average, only 0.3 percent of residential customers and 4.3 percent of business customers are seeking data in relation to their electricity account in a month. With this in mind, the relevant considerations for assessing the CDR preferred model should include:</p> <ul style="list-style-type: none"> <li>• Scope of the CDR including the identification of what data sets are required to enable energy businesses to understand the changes and capacity required, and ongoing compliance costs.</li> <li>• Support Services. Consideration should be given to who is best positioned to provide the data captured under the CDR, but also to provide ongoing advice and support to consumers and accredited data recipients (ADRs). In our experience the provision of data alone (for example, a NEM12 file) is of little benefit to a customer without guidance on how to interpret the data. Energy Queensland therefore suggests consideration must be given to the support services that may need to be established by AEMO to manage models 1 and 2.</li> <li>• Existing Relationships. Consideration should be given to the existing relationships market participants have with customers and data recipients. For example, while retailers, metering data providers and DNSPs all hold metering data, customers historically approach their retailer seeking the requested data. Customers must therefore be informed and educated on the CDR model selected. It is also unclear whether existing information channels will be excluded once the CDR model is adopted. That is, where a current data holder can provide the requested data, will the data holder be required to refer the customer to AEMO (if Model 1 or 2 are adopted) to ensure the CDR is met from a compliance perspective?</li> <li>• Capacity of each model to grow. As new bespoke and/or customised products are brought to market, the CDR must be sufficiently flexible to enable new products to be stored and reported.</li> <li>• Redundancy. Appropriate redundancy should also be considered by AEMO to mitigate any risk to service continuity and quality, particularly for the AEMO centralised model (Model 1) which provides</li> </ul>

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	<p>for a single point of failure.</p> <ul style="list-style-type: none"> <li>• Customer Experience. Consideration should be given to the ease with which a customer is able to access and understand/interpret their data. If the CDR is difficult to use, or where a customer is unable to understand the data received, then customers will be very unlikely to use it.</li> </ul>
<p><b>Question 2:</b> Having regard to the assessment criteria, what are the advantages and disadvantages of each of the models?</p>	<p>Energy Queensland cautions against any inference that low levels of customer engagement with the competitive retail market are driven by a lack of access to their data. As outlined in section 7.3 of the Consultation Paper the electricity data sets likely to be covered under the initial energy CDR rules are already largely available to customers, and are subject to the NERL, NER and other requirements, including AEMO’s Metering Data Provision Procedures.</p> <p><b>User Functionality</b> - A number of market participants provide online portals which deliver data (including data sets likely to be covered under the initial energy CDR rules) in a way that is simple, transparent and convenient for consumers. Consent, authorisation and authentication are currently managed by retailers as part of existing obligations. Maintaining the security of data and privacy of customers under the CDR is of critical importance as data becomes more readily available. As noted in the Consultation Paper, <i>“irrespective of the chosen data access model, it must support an appropriate process for consumers to consent to sharing their data. This may relate to consumers consenting to an ADR receiving their data, authorising data holders releasing/sharing their data, and authenticating or verifying their identity”</i>.<sup>1</sup></p> <p>Energy Queensland acknowledges that the specific processes for consent, authorisation and authentication in the CDR for the energy sector will be determined at a later stage. However, any requirement to enhance security and resilience controls to address risks will need to be assessed against existing consent, authorisation and authentication flows currently managed by market participants, as part of a cost-benefit assessment.</p> <p><b>Cost effectiveness</b> - The model selected by the ACCC must be the most cost effective solution, with consideration given to the extent each model is able to leverage existing systems within the energy sector.</p>

<sup>1</sup> Page 24.

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	<p>Energy Queensland has not had the opportunity to undertake a thorough cost assessment of each of the models proposed, but suggests there is a need to limit investment in new infrastructure and processes, particularly as recent rule changes have resulted in significant investments in information technology in an environment where customers are demanding lower electricity prices.</p> <p><b>Interoperability</b> - Energy Queensland agrees that sector specific variations may impact the consistent delivery of the CDR throughout the economy so it may be prudent to consider the benefits of one economy-wide CDR model.</p> <p><b>Efficiency of relevant markets</b> - Energy Queensland suggests that the models being considered should be assessed in terms of the innovation they deliver, such as the products and services they offer to customers.</p> <p><b>Reliability, security and privacy</b> - Energy Queensland agrees that the privacy and confidentiality of consumer information is a key consideration and is of critical importance as customer data becomes more readily available. In our submission to the COAG Energy Council's Draft Report on Facilitating Access to Consumer Energy Data we highlighted the fact that where personal information is held jointly, an eligible data breach under the <i>Privacy Act 1988</i> of one entity will also be considered an eligible data breach of other entities that hold the affected information. As such consideration must be given to whether the model adopted introduces new or increased security or privacy risks. We are firmly of the view that consideration must be given as to how to protect an energy business to ensure it is not held jointly liable should data be incorrectly released via the CDR.</p> <p>Energy Queensland also agrees that it is appropriate for the ACCC to consider the capacity and capability of participants in the sector to conform with CDR standards, rules and privacy safe guards, particularly where they may not have been subjected to similar standards, rules and safe guards in their current role.</p> <p><b>Flexibility and extensibility</b> - Flexibility in the model is vital to support ongoing innovation. As market participants continue to develop new and innovative products and services, the CDR model selected must be able to evolve quickly. Lessons should be learned from the evolution of the Energy Made Easy platform and the challenges it has faced in adapting to evolving market conditions.</p>

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<p><b>Question 3:</b></p> <p>What are the likely implementation/compliance costs for market participants (including accredited data recipients) under each of the models, including costs associated with IT system changes or data storage?</p>	<p>As previously mentioned, Energy Queensland has not had the opportunity to undertake a thorough cost assessment of each of the models proposed.</p> <p>At a high level the implementation/compliance costs for market participants under each of the models will be influenced by the scope of data, frequency of data updates and requirements around the maintenance of data points. As noted in the Consultation Paper, the initial data sets for the CDR in energy have not yet been determined and are likely to be the subject of a separate Treasury consultation process. Once determined, a more robust cost assessment may be possible.</p> <p>In addition, the requirements on ADRs to achieve and maintain accreditation, and an assumed uptake of this entitlement by customers, will influence implementation, compliance and other ongoing costs.</p> <p>It is likely that any associated implementation/compliance costs for market participants will ultimately be borne by all customers and should be a key consideration when determining the most appropriate model to support the CDR in the energy sector.</p>
<p><b>Question 4:</b></p> <p>What additional requirements should the ACCC consider including in the CDR rules for the energy sector if the gateway model is adopted?</p>	<p>Notwithstanding Energex and Ergon Energy Network's preference for the Gateway Model, we note the potential for this model to spread compliance costs across the industry, driven by a proliferation of products. Noting this, we suggest additional consideration be given to the scope and frequency of data and how data on new products is to be made available so as to ensure this potential impact on compliance costs is minimised and does not result in a detraction from what Energex and Ergon Energy Network consider is the most preferable option.</p>
<p><b>Question 5:</b></p> <p>What emerging technologies do stakeholders believe will have an impact on the energy sector with respect to the CDR?</p>	<p>Any new product from any market participant could in theory become subject to the CDR. In the future additional data sources will be available to the customer such as Home Energy Management Systems (HEMS) and electric vehicles (EV's). Energy Queensland acknowledges these data sources can provide additional value for wider market purposes. However the volume of data which may ultimately be required should not be underestimated. It is therefore important that the model adopted maintains a high level of flexibility which allows for competitive approaches to be maintained in the development of innovative</p>



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	<p>products in the market. However, we do question how data from emerging and expanding technologies and processes, such as EVs, embedded networks or card-operated meters, will be treated by the CDR in the future. Consequently Energy Queensland would welcome the opportunity to explore this further with the ACCC.</p>
<p><b>Question 6:</b> What are the cost differences to participants of providing data once a day (to an AEMO repository) or on demand?</p>	<p>Energy Queensland is concerned that the sheer volume of data to be provided by all market participants has the potential to overwhelm a centralised repository if not managed correctly. In addition, changes to IT systems and data storage requirements will also be influenced by the frequency in which data is provided to an AEMO repository.</p> <p>Consequently, as part of the cost/benefit analysis, consideration must be given to the appropriate frequency of data provision. Energy Queensland is of the view that the frequency of data provision should be proportionate to the demand from the market for this data. Furthermore, the model must be sufficiently flexible to allow adjustments to the frequency of data provision to ensure the model selected remains the most cost effective solution.</p> <p>Energy Queensland is mindful of the volume of data required to be transferred each day, and where data is held by multiple parties (such as National Metering Identifier Standing Data and Metering Data), in the interests of avoiding duplication, we consider that the rules should be explicit as to which data holder is obliged to provide what data.</p>
<p><b>Question 7:</b> What is the competitive impact, if any, of accessing data through AEMO rather than through a retailer?</p>	<p>A central database as proposed under Model 1 will be large at commencement, and will likely grow over time as more data becomes available. Such a model has a risk of becoming cumbersome over time, and lacks the ability to quickly accommodate additional information that is identified as useful to consumers and third parties. This may impact on the ability of users to derive value under that model. In contrast, retailers currently have, and will continue to evolve, platforms that have a greater degree of flexibility to accommodate innovative products and capture data that the market determines to be of value.</p> <p>As mentioned above, while Energex and Ergon Energy Network have a preference for Model 2, we note the need for the scope and frequency of data provision to be managed to ensure potential compliance</p>



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	<p>costs associated with this model are minimised.</p> <p>Ergon Energy Retail supports customers accessing and controlling their data, but raises the need for explicit business rules governing the operation of the CDR, and which align definitions between the CDR and energy legislation to ensure data quality. For example a disconnected site is very different to a disconnected customer. Nuances such as this need to be clearly reflected in the CDR.</p>
<p><b>Question 8:</b></p> <p>Are there any other issues that stakeholders wish to raise?</p>	<p>Energy Queensland raises the following issues:</p> <ol style="list-style-type: none"> <li>1. The requirement for a data holder to provide historic data going back to 1 July 2019 may be problematic as this will be data that was generated prior to commencement of the CDR in energy and, as such, may not be captured by the data holder in the format required to be delivered via the API to the accredited data recipient. This may require the data holder to manually retrieve the information and input it to the CDR resulting in additional overheads.</li> <li>2. Electricity retailers and DNSPs hold certain sensitive information (for example, whether a customer is a life support customer). Consideration should be given to excluding this information from the customer provided data if it is not relevant to determining any potential product offering.</li> <li>3. Model 1 involves handing over customer supplied data to AEMO. When customers initially provided this information to retailers to set up retail contracts, it is questioned whether the customers gave consent to this pass through of data to AEMO. Prior to the implementation of the CDR, we are concerned with the potential need to obtain consent and authority from our customers to disclose the information to either AEMO (under Model 1 and 2) or the ADR (Model 3) in order to indemnify and release us from any and all liability, loss or damage suffered or incurred as a result of EQL relying on this authorisation.</li> <li>4. Whilst the Consultation Paper refers to potentially imposing obligations on retailers, DNSPs, AEMO and government-provided energy comparator services as data holders, the Consultation Paper does not indicate whether data holder disclosure obligations are likely to be imposed on Metering Coordinators and/or Metering Data Providers. We are of the view that the scheme should initially apply to the minimum number of data holders to deliver the priority data sets (that is, retailers and AEMO) to reduce</li> </ol>

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	<p>implementation costs to industry as a whole in implementing the CDR regime.</p> <ol style="list-style-type: none"> <li data-bbox="689 432 2040 531">5. Energy Queensland questions whether there is any correlation between the CDR and the impending Open Energy Networks consultation, and whether AEMO, as the single point of contact for both processes, has sufficient capacity and capability to simultaneously deal with both processes.</li> <li data-bbox="689 552 2085 850">6. Customers requesting data will need to create digital profiles. We therefore enquire as to what tools and educational skills/campaigns will be provided to customers to equip them with the skills necessary to create a digital profile and to understand the data received. This is of significant concern particularly for vulnerable customers who (potentially) could achieve the greatest outcomes from the CDR, such as using data received to compare retail offers. We also question what (if any) other options were considered by the ACCC to increase access to consumer data? For example, the National Energy Retail Rules prescribe the information a retailer must include on an electricity bill. We therefore wonder whether these provisions could instead have been expanded to provide for greater data provision to customers (likely at a significantly lesser cost).</li> <li data-bbox="689 871 2056 935">7. Energy Queensland also questions when a review of the current NERL and National Energy Retail Rules, and the NEL and NER will be undertaken to ensure the energy legislation aligns with the CDR.</li> </ol>