

24 June 2024

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Australian Energy Market Commission  
Level 15, 60 Castlereagh Street  
Sydney NSW 2000

*Submitted online*

**RULE CHANGE REQUEST: ACCESS TO REAL TIME DATA FOR CONSUMERS AND THEIR  
AUTHORISED REPRESENTATIVES.**

Dear Anna

Energy Consumers Australia (ECA) commends the Australian Energy Market Commission (AEMC) on completing their review into Metering and providing their final recommendations for an accelerated roll out. Consumers tell us they want the future energy system to be affordable, reliable, and clean.<sup>1</sup> Smart meters are necessary infrastructure to achieving this.

However, many consumers also tell us they lack the information and tools to help better understand their energy use (to help lower bills).<sup>2</sup> The AEMC note that '*accelerating smart meters, will provide the data necessary for customers to make informed choices.*' Therefore, it is critical that as a key component of the roll out, consumers have unfettered access to their energy data (including their authorised representatives), in a format that makes sense to them, and in real time.

The final report recommended two streams for implementation, one which focuses on the acceleration of smart meters, and one specifically for access to real time data. With the rule change proposal for the acceleration well under way, it is pertinent that the rules for access to real time data are considered together (or as close as possible) to best ensure they complement each other and avoid creating undue barriers. ECA therefore welcomes the opportunity to submit a rule change request as the necessary next step.

This proposal recommends:

- Changes to the National Electricity Regulations (NER) and the National Energy Retail Rules (NERR) that will enable consumers and their authorised agents to access 'customer power data.'
- The requirement for this to be 'real time' data, with 'real time' to be defined in the NER.
- Access to consumer data bears no additional cost to consumers and is delivered in a manner and form that is meaningful for them to act upon.

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<sup>1</sup> Energy Consumers Australia, *Consumer value, expectations and needs* (2020).

<sup>2</sup> Energy Consumers Australia, *Energy Consumer Sentiment Survey* (December 2023).



Where applicable we have referred to the recommendations made in the final report to support the drafting of this rule change proposal. However, we note the AEMC's direction that collaborative consultation will still be required for much of the detail design after a proposal is submitted. Therefore, this proposal focuses primarily on how best to achieve good consumer outcomes rather than the technical requirements.

Yours sincerely

Brendan French  
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## 1. Rule change proponent details

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## 2. Nature and scope of the issues

The key issue this rule change request seeks to address is that neither the NER nor the NERR support consumer access to real-time data for the following reasons:<sup>3</sup>

- Unlike for historical data, there is no explicit right in the NER or NERR for consumers to access their real-time data.
- Under the NER, only accredited metering service providers may remove the seals covering the communications port, presenting a barrier to consumers or their authorised representatives accessing data locally.
- Remote access:
  - is difficult to negotiate because metering services providers have an effective monopoly over the meter and its data, making negotiation of fair and reasonable terms of access difficult; and
  - may not provide data quickly enough to offer certain services that require instantaneous data provision.

More generally, the current data access framework within the NER was developed some time ago and, given developments in technology and the rollout of smart meters, broader changes may be required to ensure we have a modern and fit-for-purpose framework. The Consumer Data Right established that consumers have the right to choose whether to share their data, who they want to share it with, and for how long. This proposed rule change will help deliver the intent of that framework by supporting simple and low-cost access to a customer's real-time data by their authorised representatives.

Addressing these issues is critical to enabling consumers to offer, and benefit from, services that will help them manage their bills and deliver the transition.

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<sup>3</sup> To be clear, by "access to real time data," we mean that consumers are able to access their real time data in real time.



Allowing consumers to access their real time data is critical to help them manage their bills, optimise their CER and benefit from services that will help deliver the transition

### **Consumers want more information about their energy use**

New and lower cost technology, combined with new market developments, are opening up opportunities for consumers to engage with energy in different ways that can benefit them. The widespread roll-out of smart meters will enable the capture of more granular data on the unique energy use profile of each household and small business. Providing consumers and their agents with access to real time data, at an efficient cost and in a format that can be easily used will help consumers lower their bills, unlock rewards for using their energy flexibly and, in doing so, help deliver the energy transition.

Access to the insights provided by real time data on energy consumption and generation can help consumers understand and adapt their own behaviour, if they have the ability to do so, helping to lower their electricity bills. Our research has found that consumers want information that could be provided via access to real time data, and they believe it would help them change their behaviour. In June 2021 we asked consumers if they thought having access to energy consumption data would help them reduce their electricity.<sup>4</sup> 60% of households said they would be interested in receiving access to overall energy usage, followed by 56% who said they were interested in an appliance breakdown.

More recently, our research has found that now 78% of households would like to know how different energy uses/major appliances contribute to their bill.<sup>5</sup> In addition, 66% of households are interested in how technology (such as smart meters or home energy management systems) can help make savings on their energy bills.

Looking at other essential services such as banking, where 63.6% of consumers use mobile banking apps to access real time information on their accounts,<sup>6</sup> it is clear that consumers want and benefit from access to their data in a clear, timely, and accessible manner.

Critically, consumers must have easy and simple to understand access to their data. For example, this could be through an in-home display or an app. Recent research in the UK, where in-home displays (IHD) were rolled out with smart meters, has found that 87% of consumers who were given an in-home display use it, with the majority (62%) reporting that they do so regularly.<sup>7</sup> Around 3 in 10 UK consumers reported using a mobile app to monitor usage, with over half of them using it alongside their in-home display.

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<sup>4</sup> Energy Consumers Australia, *Energy Consumer Sentiment Survey* (June 2021).

<sup>5</sup> Energy Consumers Australia and The Insights Centre, *Household Energy Consumer Information Research* (November 2023).

<sup>6</sup> Roy Morgan, *Satisfaction with banking channels - report* (2021).

<sup>7</sup> Citizens Advice, *Get Smarter: Ensuring people benefit from smart meters* (May 2024) p 15.



Further, lessons can be learned from the Victorian rollout, where after it was recommended the Victorian Government do more to help consumers ‘better understand and control their household consumption’ the government introduced measures such as subsidising in-home display units through their Victorian Energy Efficiency Upgrades program.<sup>8</sup>

Not all the use cases described above require access to real-time data. For some, on-demand access to historical data may be sufficient. While the focus of this rule change is accessing real-time data, we consider the proposed changes will also support improved competition to develop simple to use data portals, where these are not already available.

### **Real-time data is required to unlock competition in new services**

Technology is also unlocking new ways for retailers and networks to charge consumers to recover their costs and send price signals to consumers about the cost of energy use at different times of day. Consumers are increasingly being shifted onto time of use tariffs, often without consent. While consumers may be able to benefit from these tariffs if they are able to shift their energy use, many do not currently have the information and tools they need to be able to respond.

Allowing consumers to authorise their representatives to receive their real time smart meter data will also help support a competitive future service industry to produce tools and services that will assist consumers to optimise their consumer energy resources (CER) and/or usage. While we are yet to understand the full range of future services or products that may be offered to consumers, access to real time data will be a critical enabler for energy service provision as we shift to a more flexible energy system in which consumers are increasingly expected to participate.

Giving consumers the tools and services they need to harness expected periods of energy abundance during the day and limit their energy consumption during periods of scarcity in the evening, will help consumers keep their energy bills down as well as lower overall system costs.

Demand flexibility and orchestration of CER are increasingly being recognised as a key plank in delivering the energy transition at the lowest possible cost. The Australian Energy Market Operator’s (AEMO’s) draft Integrated System Plan (ISP) for 2024 includes an expectation that, under the Step Change scenario, Virtual Power Plants (VPPs) will be delivering 27 GW of flexible demand response in the national electricity market.<sup>9</sup> The draft ISP also recognises that orchestration of CER assets will reduce the need for utility-scale solutions.<sup>10</sup>

Similarly, consumers will need information, services and tools to maximise their use of CER once distribution network service providers implement flexible export limits, helping keep the network safe, secure, and reliable while maximising capacity for exports. Managing solar exports within an envelope requires knowing solar production and consumption in real time.

Ensuring a competitive market for these services can develop will be essential, and not just to ensure such service are available. We have heard concerns that the potential changes could inadvertently create the opportunity for “sub metering monopolies” whereby metering service providers may not have incentive to provide access to customer power data to third parties.

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<sup>8</sup> Consumer Action Law Centre, *Public education the key to realising the benefits of Victoria’s smart meter rollout* Media release (December 2011).

<sup>9</sup> AEMO, *Draft 2024 Integrated System Plan* (December 2023) p 11.

<sup>10</sup> Ibid, p 47.



For example, we have heard concerns from some third-party providers that some metering service providers are developing proprietary hardware and software to offer services to consumers that leverages the metering platform. We understand that this additional functionality can only be used by the metering service provider and makes it difficult for third parties to compete on a level play field, even if they have access to real time data. While this rule change request does not propose a solution to this issue, the AEMC may wish to consider whether any amendments to the NER, in addition to those below, are required to facilitate a competitive market that will deliver innovative and low-cost services to consumers.

For consumers to trust service providers that are controlling appliances and CER in their homes and businesses, consumers must be confident that the market is working for them. This means that services need to be innovative and low cost, and that consumers are not locked in or limited to a small number of providers – they should be able to shop around in a competitive market with real choice. Unlike the supply of electricity, flexibility services are not an essential service and so if consumers do not have a positive experience, they may not participate. This would reduce opportunities for individual consumers to manage their bills and would have a wider negative impact of reducing potential sources of flexible capacity for the system. Access to consumers' real time data by authorised third party service providers on reasonable terms and conditions is a necessary element of a competitive market.

Finally, there are rule change requests currently underway that, if made, would also benefit from or potentially require access to real time data. These are:

- *Unlocking CER benefits through flexible trading* rule change, which is intended to make it easier to separate the flexible and non-flexible components of a consumer's demand; and
- *Integrating price-responsive resources into the NEM* rule change, which is considering whether unscheduled price-responsive resources, such as VPPs, could participate in scheduling processes and potentially reward them for doing so.

### The rules do not currently give consumers a clear right to access their real time data

Currently, consumers only have the right to access historical metering data; they do not have a clear right to access their real time data either through the National Electricity Rules (NER), the National Energy Retail Rules (NERR) or the Consumer Data Right (CDR).<sup>11</sup>

There are two ways consumers and their agents could potentially access real time, or near real time, data:

- Locally, via their metering installation; and
- Remotely, by negotiating access with a metering service provider.<sup>12</sup>

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<sup>11</sup> Rule 56A and 56B and rule 86A of the [NER](#).

<sup>12</sup> For convenience, this rule change request refers to “metering service providers” to capture metering coordinators, metering providers and metering data providers. However, we recognise these are distinct roles. We consider the AEMC is best placed to consider on whom the various obligations should be placed.



## **Local access is not permitted under the NER**

The NER currently prevent local access to the metering installation by third parties. Access to the communication port(s) on current smart meters (where a communications port exists) is currently limited where seals that are used to protect the security of the metering installation (and the safety of persons accessing the meter box) cover the communications port.<sup>13</sup> Only accredited service providers can break and replace the seal on a metering installation and the security of metering installations is the responsibility of the metering coordinator.<sup>14</sup>

Further, our understanding is that not all meters currently installed have physical communications ports and therefore cannot facilitate physical local access.<sup>15</sup>

## **Remote access may be difficult to negotiate**

In theory, a customer's authorised representative could come to an agreement with a metering service provider for remote access to a customer's real time data. However, there is no requirement on the metering service provider to offer these services and the price and other terms and conditions on which these services may be provided is not regulated under the NER or NERR. The metering service provider may not be willing to enter into fair and reasonable negotiations, particularly if they are involved in providing services to consumers themselves, either directly or tangentially, and so may not be incentivised to allow access. Even if not providing other services, they have an effective monopoly and so may not offer access on fair and reasonable terms.

As the AEMC noted in its final determination implementing competition in metering services:

*Any Metering Coordinator, regardless of its ownership structure, has an incentive to charge as high a price as it can for the provision of metering services to third parties. They will also have some degree of market power, particularly in situations where a third party cannot choose an alternative Metering Coordinator at a particular premises.<sup>16</sup>*

While the AEMC considered at that time that the ability to exercise market power may be constrained by several factors, it is not clear that in practice consumers' authorised representatives have been able to negotiate access to data on fair and reasonable terms, and consumers themselves do not have a contractual relationship with the metering service provider or even likely know who they are.

Even if a customer's authorised representative is able to come to an agreement with a metering service provider, remote access will not necessarily provide data in the timeframes required to deliver certain services. Truly real time data access can only be achieved via local access. Further, the B2B procedures and AEMO's e-hub do not support communications in relation to real time data services and communications protocols would need to be established between the access seeker and the metering service provider to support provision of the service.

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<sup>13</sup> For convenience, this rule change request refers to "smart meters". However, typically we mean a *small customer metering installation* as defined in the [NER](#).

<sup>14</sup> Under NER [clause 7.15.2](#), a Metering Coordinator "must ensure that the metering installation is secure and that associated links, circuits and information storage and processing systems are protected by security mechanisms acceptable to AEMO."

<sup>15</sup> While the physical port is preferred for local access, it may be possible for wifi-enabled meters to facilitate data transfer without the data being sent off site.

<sup>16</sup> AEMC, *Final Determination, Expanding competition in metering and related services* (November 2015) p 79.



## The market will not solve this issue

Some stakeholders consider that regulatory intervention is unnecessary and that existing products and offers already meet consumers' needs.<sup>17</sup> While there may be examples where products and services utilising real time data or near real time data are being made available to consumers, these examples alone do not demonstrate a well-functioning market.

For example, ECA understands that third party providers currently get around these barriers by installing their own device to enable them to offer services to consumers that require real time data. Similarly, consumers are able to purchase a device that enables them to monitor their real time energy use. This workaround introduces additional costs for consumers and unnecessarily duplicates costs. As the AEMC stated in its review of the regulatory framework for metering services, consumers should be able to access real time data from the smart meters without incurring additional charges.<sup>18</sup> Consumers should not have to pay for a separate device to access their own data where it already exists.

Requiring consumers to purchase a separate device to access their real time data also contributes to existing inequities between consumers that can afford technologies that help them manage their energy use and those that can't. Customers that already have a second device that enables them to access real time information and/or energy management services are typically those that already have solar and other technologies. The cost barrier to purchasing a separate device increases the energy divide by locking out customers that could benefit from real time data to help them manage their own energy use, for example to benefit from time of use tariffs if they are able to shift their energy usage.<sup>19</sup>

There are also other limitations to relying on a separate device. For example, there may be physical limitations on where the devices can be located, making them impractical for some people. Further, devices must comply with certain requirements defined in the NER<sup>20</sup> to be considered revenue grade and so be able to be used for the purpose of settlement.

The *Unlocking CER Benefits through flexible trading* rule change proposes to introduce a new type 8 meter that would be settlement grade, but could be built into the CER device or wired externally to the device.<sup>21</sup> However, this amendment is unlikely to resolve the issue of access to real time data because, under the proposal, the Metering Coordinator responsible for the customer's connection point must also be responsible for any secondary settlement point. Therefore, a third-party provider would still need to negotiate with the customer's metering service provider to obtain access to the data.

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<sup>17</sup> AEMC, *Review of the Regulatory Framework for Metering Services Final Report* (August 2023) p 131.

<sup>18</sup> As above at p 127.

<sup>19</sup> There may also be a cohort of consumers that have solar but cannot afford the additional cost of a separate device to help them manage usage or access service providers that can do so. For example, some jurisdictions are rolling out solar in social and community housing. It is not clear whether the installation of solar extends to a separate metering device to access real time data, and customers may not be able to purchase a device themselves.

<sup>20</sup> For example, metering installations must meet the requirements set out in [NER 7.8.2\(a\)](#) and small customer metering installations must also meet the minimum services specification set out in NER Schedule 7.5.

<sup>21</sup> AEMC, *Unlocking CER benefits through flexible trading: Draft determination* (February 2024).





Some retailers offer customers access to their smart meter data via an app or portal. However, ECA is not aware of any retailer offering less than 24-hour latency. Arguably, this may be sufficient for many consumers accessing the data themselves, and for delivery of some services. However:

- not all retailers currently offer access to data that is even as recent as 24 hours, and it is not clear that third parties could access this on their behalf if they did
- 24-hour latency is not sufficient for the provision of some services such as managing flexible exports, demand response and CER optimisation.

### 3. Description of proposed rule

ECA proposes the NER be amended to introduce a clear right for consumers and their authorised representative to be able to access the consumer's real time data. Amendments may also be required to the NERR to implement the proposed rule.

In describing the proposed rule, ECA have considered the AEMC's final recommendations from its review of the regulatory framework for metering services, set out in Appendix F of its final report (for convenience, referred to in this rule change request as the AEMC's final report). We also note the stated intention of the AEMC to consider design and implementation issues in collaboration with stakeholders on receipt of a rule change request.<sup>22</sup> We agree that further, collaborative work is required to design details of the proposed rule, including the many technical details that will need to be resolved. With this in mind, this proposal has focused on key elements of the framework and the outcomes we consider this rule change should achieve.

The final report recommended using the EU Data Act ("the Act") as a potential framework to emulate. While we have not addressed the Act in detail, we see it as a good starting point for thinking about data accessibility and operational functions, for example when considering:

- Interoperability.
- Business to Business Data sharing.
- Connected products and related services.
- Obligations in respect of request from public authorities.
- Enforcement.

However, the Act's key goal is to 'stimulate a competitive data market'. We do not consider this the primary outcome of a framework for enabling data access. Rather, the outcome should be that consumers and their authorised representatives are able to access real time data to support consumer decisions, and enable consumers to benefit from energy services that are tailored to their needs.

We therefore propose drawing on the Act, but as a means to enable the following consumer outcomes, as discussed further below:

- Consumer do not pay additional charges for their power data (this does not mean they cannot be offered a paid service from a third party).

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<sup>22</sup> AEMC, *Review of the regulatory framework for metering services: Final Report* (August 2023) p 127.



- Consumers are able to easily and simply access and understand their power data and be able to use this data to make informed energy decisions in their best interest.
- Consumers are able to easily share or authorise access to third parties to obtain their data to assist with their energy decisions.
- Consumers do not face unnecessary barriers to accessing their own real time data.
- Consumer data is protected (by the relevant laws and regulations) and not used outside of what a consumer has consented for, or used for reasons that contradict the purpose of this proposed rule. Consent in this context means informed consent, and we would expect unfair contract term obligations to be applied here or relied upon in the drafting of retailer and metering service provider obligations.

### Define “real time”

We propose the NER be amended to introduce a new definition of what is meant by “real time.” This should be sufficiently fast to allow for consumers’ authorised representatives to access the information they need in the time they require to provide the service they are offering, or to inform consumers’ energy consumption decisions. This means that the delivery period should be based on the time for it to be received, not sent (that is, it should account for latency).

If the AEMC concludes the definition of “real time” is anything slower than instantaneous data provision, the AEMO should have responsibility for defining “real time” in procedures, subject to a maximum time frame in the NER. This in turn should be no more than 300 seconds (5 minutes) to coincide with market settlement. For example, AEMO could define “real time” data provision in the existing Metering Data Provision Procedures that AEMO is required to establish, maintain, and publish under clause 7.14(a) of the NER. This provides flexibility for the definition to be amended over time without the need for a rule change.

A new clause should also be introduced to permit stakeholders, including third-party services providers, to request a review of the Metering Data Provision Procedures to amend the definition of “real time.” Alternatively, AEMO should be required to consider whether to amend the definition of “real time” on a regular basis, for example annually. This will ensure the minimum standard is regularly reviewed and updated, to reflect advances in technology that reduce the costs associated with delivering data more quickly.

### Define the power data to which customers and their representatives should have access

A new definition in the NER is required to define the power data that customers and their authorised representatives will have a right to access.

We propose the definition be consistent with the AEMC’s draft rule on accelerating the rollout of smart meters, which defines “power quality data” as:

*The characteristics of the power supply as measured by the meter, which includes measurements of voltage (in volts), current (in amperes), and power factor (expressed as the ratio of the active power kW to the apparent power kVA or as a phase angle).<sup>23</sup>*

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<sup>23</sup> AEMC, *Draft National Electricity Amendment (Accelerating smart meter deployment)* Rule 2024 [22] Chapter 10.



However, the definition should be future proofed so that customers and their representatives can access other data from their smart meter that may become relevant in the future. As such, “customer power data” should be defined as “power quality data [as defined above] and any other category of data specified in the relevant AEMO procedures as customer power data.” Consistent with our proposal for real time data, AEMO could include this definition in its existing Metering Data Provision Procedures.

We understand that the ability of distribution network service providers and retailers to access smart meter data is being considered as part of the *Accelerating smart meter deployment* rule change. However, the AEMC may wish to consider whether any other market participants or market bodies may require access to real time data.

### Provide customers and their authorised representatives with the right to access real time data

We propose that clause 7.15.5(d) of the NER, which currently establishes a right for small customers and their authorised representatives to access metering data and NMI standing data, be extended to create a general right for small customers to access all customer power data (as defined above) measured by or recorded in their smart meter.

New obligations will be required for retailers and metering service providers to facilitate access to real time data. The outcome of these new obligations should be a smooth customer experience when accessing real time data. The AEMC’s final report notes, as one option, that current processes such as access via customer request be utilised. We propose that a “by request” approach is only a marginal improvement over current arrangements and continues to place a level of complexity over accessing data. Rather, the onus should be on retailers and/or third-party service providers to provide consumers with a simple means to access their data, such as through an app or in-home display.

While we have not gone into the detailed requirements of what the obligations might look like, we do propose that these obligations must meet the intention of the rule change in providing consumer benefit and improving their ability to easily understand and manage energy consumption. Further, we draw attention to the data accessible options already available for customers, for example through retailer apps and portals, as well as distributor customer portals, and consider below how these might be enhanced to meet the definition of real time data.

To give small customers and their representatives access to customer power data:

- Changes would be required to clause 7.15.5 of the NER to provide that small customers and their customer authorised representatives have a right to access customer power data (as defined above).
- Customer power data should be defined as confidential information that is, for the purposes of clause 8.6.2(c) of the NER, taken to have been provided by the relevant small customer.
- Provision of real-time customer power data should be defined as a minimum service in the minimum services specification in schedule 7.5 of the NER, with small customers and their authorised representatives defined as access seekers.
- Other changes should be made to the minimum services specification requirements to practically enable access to the customer power data service, including issues discussed below.



## Enable local access to real time data

Current barriers to enabling local access to customer power data should be removed.<sup>24</sup> This requires amendments to the NER to provide for:

- All new meters to have communications ports that are physically capable of being accessed locally, and
- Communications ports on new smart meters to be unsealed and available for access by approved parties.<sup>25</sup>

This requirement could be captured in the minimum services specification requirements in schedule 7.5 of the NER. Based on technical information provided to ECA, we understand there is generally no safety reason for sealing access to the communications port(s) on smart meters.

Requiring a metering service provider's consent for physical access to the communications ports on smart meters is likely to impose a barrier to third party service providers accessing real time data, as the metering service provider and relevant retailer are likely to have commercial interests in limiting access to data where they can provide services to the customer themselves or monetise the data available from the meter.

However, given the metering service provider's responsibility under the NER for the security of metering installations and ensuring security mechanisms are acceptable to AEMO, consideration should be given to empowering AEMO to specify in procedures how communication ports on smart meters can be physically accessed by small customers or their authorised representatives in a way that does not unduly restrict access.

These procedures could include, if required based on any relevant safety considerations:

- Required competencies or accreditation of persons accessing the communications port,
- Specifications of approved devices for accessing the communications port; and
- Records of access to communications ports.

## Require interoperability

The NER should be amended to facilitate seamless real time data transfer in a format that is useable to both consumers and their authorised representatives. The smart meter must enable customer power data to be communicated in a secure environment and in "language" that can be read by other devices.

Currently the minimum services specification under the NER do not require smart meters to have open standards-based protocols, standards-based communications interfaces, and a defined security environment for access. The NER does allow for the allocation of read-only passwords for local and that remote access to energy data be provided to specified parties, but not to small customers or their representatives.

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<sup>24</sup> Under [NER clause 7.15.2](#), a Metering Coordinator "must ensure that the metering installation is secure and that associated links, circuits and information storage and processing systems are protected by security mechanisms acceptable to AEMO."

<sup>25</sup> We note that amendments to jurisdictional Service and Installation Rules may also be required to implement this change.



To facilitate access, changes are required to the minimum services specification requirements in schedule 7.5 to facilitate standard-based communication protocols and interfaces for read-only data including customer power data.

The security environment for access (including how customer consent is obtained and verified before access to data is provided) could form part of the minimum services specification or be defined under AEMO procedures. The existing NER provisions relating to the security controls for energy data (clauses 7.15.3 and 7.15.4) would also require amendments to reflect how access to customer power data may be accessed (for example, by providing for small customers or their authorised representatives to be allocated read-only passwords by the metering service provider).

### Cost recovery and dispute resolution

Amendments to clause 7.6.1 of the NER are required to ensure that consumers are able to access their real time data at no charge. Customer power data is data created by a customer's consumption and export at their premises and, under the Consumer Data Right, consumers have control over access to that data. That is, consumers can choose whether to share their data, who they want to share it with, and for how long. Further, consumers already pay for, or contribute to the costs of, metering installations through their retail bills. They should not face additional costs in accessing data themselves.

Amendments are also required to define whether, and if so under what circumstances, metering service providers are able to charge a customer's authorised representative for access to a customer's real time data. We propose that there should be no charge for the data itself.

There is potential for metering service providers to hinder access to customer power data by potentially competing energy service businesses. As such, it does not appear appropriate to rely on commercial negotiation between the metering service provider and the third-party service provider to provide the optimal consumer outcome. We consider a more detailed access framework should be set out in the NER.

There must also be an effective dispute resolution arrangement where parties fail to agree on terms and conditions of access.

### Consumer protections

Consideration should be given to whether amendments to the NER and/or NERR are required to protect consumer privacy and address potential cyber security issues, or whether existing rules are sufficient (including through the NERR, Consumer Data Right, and Australian Consumer Law). As noted by the AEMC's final report, consideration should be given to how the European Union's Data Act aligns with the Australian regulatory framework, particularly with respect to consumer protections, and whether there are gaps in the Australian framework compared to Europe.

Given consumer concerns about data privacy, careful consideration is required to ensure consumers can trust that only necessary data is collected, that it is used for necessary purposes, and that the entities that can access their data are restricted. There must also be a clear and simple path for consumers to rescind access to their data to a previously authorised representative.

Any data that is collected by the smart meter should be considered personal information and protected under the Privacy Act. This aligns with rules already in place for energy data and metering data.



The AEMC's final report noted that it did not consider that "adding further privacy protections in the NER or NERR for real-time data access is necessary at this time" but that it would continue to monitor recent recommendations from the Attorney-General's Department on privacy.<sup>26</sup> As part of this rule change these issues must be reconsidered and analysis provided to ensure there are no gaps in the privacy framework applying to real-time data. This is timely given the rapid acceleration in the adoption of AI and the attendant risks, as well as recent high profile confidential data leaks in health and telecommunications.

### Requirement for AEMO to develop or amend guidelines

As noted above, AEMO may be tasked with developing definitions of "real time" and "customer power data" in a guideline, subject to guidance and/or minimum requirements in the NER. This could be included in the scope of the existing Metering Data Provision Procedures made by AEMO under rule 7.14 of the NER.

AEMO may also be required to develop procedures to address safety issues for accessing communications port.

### Transitional arrangements

Transitional provisions should be included that specify, among other things, when changes to the access provisions and minimum services specification take effect and what elements of these changes can be applied to the current fleet of deployed smart meters.

### How the proposed rule would address the identified issue

Overall, the proposed rule would address the issues highlighted in section 2 by providing customers and their authorised representatives with a clear right to access real time data. Providing consumers with access to real time data will allow them to improve their decision making and allow them to have access to the tools and information they need to respond to market developments such as time of use tariffs and dynamic operating envelopes. Similarly, providing consumers' authorised representatives with the right to access a customer's real time data will help competition develop in markets that we are relying on to help deliver the transition, as well as providing value to customers themselves.

These changes are also necessary to ensure that the benefits of more advanced metering data accrue primarily to consumers, rather than intermediaries.

In addition to introducing a clear access right, the proposed rule addresses the following issues:

- Provides clarity about the services that must be offered, that is what "real time" and "data" means. This will provide certainty about the minimum suite of data that must be accessible, and the timeframe in which it must be provided. It will also remove the inefficient duplication of costs that currently occurs where consumers must pay for a separate device to access their own data in real time.
- Requires real time data to be delivered in timeframes that allow customers' authorised representatives to access the information they need in the time they require to provide the service they are offering. This will support innovative product and service development by

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<sup>26</sup> AEMC, *Review of the regulatory framework for metering services: Final Report* (August 2023) p 152.



ensuring service providers are able to access data in the timeframes required to deliver a service.

- Requires data to be provided in a way and format that is usable to both consumers and their representatives. Interoperability is essential to support consumer access, and data sharing to provide functionality.
- Provides clarity over terms and conditions under which real time data can be accessed, including price. This will ensure all consumers are able to access their real time data at no additional cost and provide a fair and reasonable framework for allowing consumers' authorised representatives access to real time data, so they are able to compete on a level playing field.
- Removes the current barrier in the NER to allowing local access to a smart meter. This is essential for allowing access on a truly real time basis.

## 4. How the proposed rule will contribute to the energy objectives

The National Electricity Objective (NEO) is:

“to promote efficient investment in, and efficient operation and use of, electricity services for the long-term interests of consumers of electricity with respect to:

- a) price, quality, safety, reliability and security of supply of electricity; and
- b) the reliability, safety and security of the national electricity system; and
- c) the achievement of targets set by a participating jurisdiction—
  - i. for reducing Australia's greenhouse gas emissions; or
  - ii. that are likely to contribute to reducing Australia's greenhouse gas emissions.”

Similarly, the National Energy Retail Objective (NERO) is:

“to promote efficient investment in, and efficient operation and use of, energy services for the long-term interests of consumers of energy with respect to:

- a) price, quality, safety, reliability and security of supply of energy; and
- b) the achievement of targets set by a participating jurisdiction—
  - i. for reducing Australia's greenhouse gas emissions; or
  - ii. that are likely to contribute to reducing Australia's greenhouse gas emissions.”

The proposed rule change is likely to contribute to the achievement of the NEO and NERO in the following ways:

- **Improving consumers' control over their bills.** Providing consumers with access to their real time data will improve their ability to manage their electricity costs, including by providing consumers with insights into their energy use and informing their energy decisions. Consumers will also have greater control over who has access to their data. By increasing



consumer agency and control, we expect consumer trust, and so participation, in energy markets to improve.

- **Removing inefficient duplication of costs.** As currently consumers or their service provider must install a separate device to access information that could be provided via the smart meter.
- **Improving competition in energy services.** Allowing consumers' authorised representatives to access real time data on a fair and reasonable basis will improve competition in markets for innovative energy services. These services include demand response and management, cost-reflective pricing and tariffs, CER optimisation, flexibility services, and other innovative services that we expect to develop in the future. By improving competition in energy services, we expect:
  - **Consumers to benefit from low prices** for such energy services.
  - **Quality** of service provision to be high, which is particularly important in a market that has historically had low consumer trust and where automation and third-party control of consumer assets are likely to feature.
  - **Innovative new services** to develop that benefit consumers and are tailored to their individual preferences and needs.
- **More consumers to opt in to flexibility services.** With improved competition, more consumers are likely to choose to offer services via their CER that will support a more flexible energy system, including by facilitating orchestration and dispatch of CER. This, in turn, will have benefits for all consumers in the long run by:
  - **Reducing system costs and therefore prices paid by all consumers** by replacing expensive investment in network and utility-scale generation and storage capacity with flexible, demand-side resources, promoting dynamic efficiency.
  - **Improving reliability, safety and security** of the system for all consumers by better managing the impacts of CER uptake including by giving consumers the tools and services they need to flexibly manage solar exports.
- **Promote achievement of greenhouse gas emissions reduction targets.** A competitive market for energy services is likely to support reduced greenhouse gas emissions by making it easier for consumers to manage their energy use in a way that harnesses expected periods of energy abundance during the day – which coincides with renewable energy production. By contributing flexibility and reliability to the system, it will also help facilitate increased penetration of variable renewable energy.

## 5. Expected impacts

### Benefits

Consumers would be the primary beneficiaries of this proposed rule. Providing consumers with access to their real time data would give them with the information they need to optimise decisions about their energy use or engage third party providers to do this for them. The benefits to consumers are described further in the section above.





Third party service providers would also benefit from this proposed rule. Providing them to access real time customer data, where authorised by the customer, would enable them to compete to offer new and innovative services on a level playing field. This would support opportunities for new players to enter the market and existing providers to expand their offerings.

## Costs

Retailers and metering service providers would incur costs associated with facilitating access to real time data. The level of costs will depend on the nature of the obligation to facilitate access and whether the obligation is applied to the existing fleet of meters. However, we note that the cost of complying with any new obligations will likely:

1. Flow through to consumers in the form of indirect charges via customers' retail bills, and/or
2. Be recovered from third party service providers, subject to any constraints imposed under the rules.

## Impacts

The proposed rule would require AEMO to develop, or amend, guidelines and procedures to:

- Define a standard for "real time."
- Define the data sets that consumers and their authorised representatives should have access to.
- Address safety issues for accessing communications port.

This would require additional resources to prepare and consult on potential amendments to, or the development of new, guidelines and procedures.