

19 February 2025

Mr Benn Barr
Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney NSW 2000
Online via: www.aemc.gov.au

Dear Benn

ERC0399 – Real-time data for consumers Directions paper

Thank you for the opportunity to comment on this directions paper.

The comments contained in this submission reflect the feedback of the Energy & Water Ombudsman NSW (EWON), Energy & Water Ombudsman South Australia (EWOSA), and Energy and Water Ombudsman Queensland (EWOQ). We are the industry-based external dispute resolution schemes for the energy and water industries in New South Wales, South Australia, and Queensland.

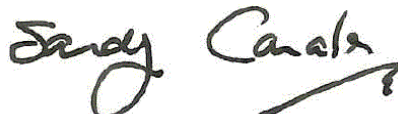
We have collectively reviewed the directions paper and we have only responded to those questions that align with issues customers raise, or with each respective organisation's operations as they relate to the directions paper. We also strongly re-iterate our call for metering service providers to be required to join state energy ombudsman schemes, so that we can more easily resolve disputes, ensure that MSPs bear the cost of complaints that are their responsibility, and identify and report systemic issues that relate to their service.

If you require any further information regarding our submission, please contact Dr Rory Campbell, Manager Policy & Systemic Issues (EWON) on 02 8218 5266, Mr Antony Clarke, Policy and Governance Lead (EWOSA) on 08 8216 1861, or Mr Jeremy Inglis, Manager Policy and Research (EWOQ) on 07 3212 0630.

Yours sincerely



Janine Young
Energy & Water
Ombudsman
New South Wales



Sandy Canale
Energy & Water Ombudsman
South Australia



Jane Pires
Energy and Water Ombudsman
Queensland

ERC0399 Real-time data for consumers Directions paper

We are disappointed that the Australian Energy Market Commission (AEMC) has not considered salient points from [our response of 6 November 2024](#) to the Real-time data for consumers Consultation paper.

We detailed serious faults from a consumer detriment perspective with the metering services framework which, if not addressed, will also impede effective and efficient real-time data access for customers.

We also provided case studies indicating that the mechanism of establishing contractual relationships between retailers and Metering Service Providers (MSPs) is currently resulting in detrimental consumer outcomes and shows a critical lack of accountability for MSPs.

The directions paper outlines a proposed framework that relies heavily on the effectiveness of contractual relationships between retailers and MSPs. This response reiterates that it is crucial the AEMC implement effective measures that will:

- deliver strong and accountable regulated contractual relationships between retailers and MSPs that result in effective, fair and timely consumer outcomes and smart meter installation where the installation is not straightforward; and
- require MSPs to be members of energy ombudsman schemes so that:
 - disputes can be resolved so that meters can be installed – both in a timely manner
 - MSPs wear the cost of complaints where the issue rests with services that are their responsibility
 - systemic issues with MSPs can be identified, addressed and reported to regulators.

The AEMC is considering what features of the Consumer Data Right (CDR) are required in a real-time data framework. The co-design of the CDR included considerations of consumer protections and external dispute resolution upfront. We strongly urge the AEMC to strongly consider these aspects in the design of the proposed real-time data framework.

Question 1: Do you agree with a staged implementation approach for when consumers pay for access to real-time data?

We acknowledge the AEMC's reasoning for proposing that upfront charges for access to real-time data be allowable for 15 years, including that:

- there are upfront costs associated with developing and implementing the process to communicate real-time data from the smart meter to consumers and third parties;
- the proposed timeframe takes into account the long-term outlook for smart meter fleets, given that most current and soon-to-be-installed smart meters do not have in-built functionality to provide real-time data and would need retrofitting at an upfront cost;
- it is currently unclear what customer uptake of real-time data access will look like, so it may not be reasonable to smear the upfront costs across all customers; and
- current options to access time-lagged data at no cost should be sufficient for many customers.

We are concerned that if costs to access real-time data are high, customers will face an increased switching burden and further barriers to benefiting from the energy transition. This is most acute for people, experiencing or at risk of vulnerability, such as low-income renters, people impacted by natural disasters and people impacted by family violence. For example, the movement of customers to new retailers while carrying existing debt creates challenges for them to access appropriate

protections and assistance. We therefore strongly support the following AEMC proposals to help guardrail the costs to some extent:

- charging for ongoing costs would be excluded, with only upfront cost allowable
- if a consumer switches retailers but remains at a premise where they have paid for and received access to real-time data, the new retailer should provide access free of charge
- if a consumer moves into a premise where real-time data access was enabled by a previous occupant, they should not have to pay for access.

However, these measures are unlikely to be sufficient.

The AEMC outlines in the directions paper that the MSP would incur upfront costs directly but would pass on these costs to retailers. Retailers would manage the cost to MSPs through their commercial contracts. In our response to the consultation paper, we explained we continue to receive many complaints, and anticipate an increase in complaints aligned with the fast-tracking of meter rollout, that indicate:

- if a retailer and MSP have an existing commercial arrangement, the retailer will benefit from the metering charges they have negotiated as part of the agreed commercial arrangement
- if a retailer is unable to negotiate a beneficial metering contract, or if it acquires a customer where the site is covered by a churn contract, the cost of servicing that customer can be significantly higher and lead to different outcomes for that customer compared to a customer serviced by the retailer's preferred MSP.

Most importantly, our complaints show that customers are receiving unequal outcomes simply because of the relationship, or lack of contractual relationship, between their energy retailer and the MSP. The effectiveness of this relationship is outside the customer's control and should have no bearing on customer outcomes. The customer has no mechanism to hold MSPs accountable when problems occur with metering and data services (including high costs), and the MSP is not cooperating with the retailer.

We are concerned that there will be similar issues keeping upfront costs for real-time data access competitive and affordable. The AEMC must implement effective measures that will deliver strong and accountable regulated contractual relationships between retailers and MSPs that result in effective, fair and timely consumer outcomes.

Question 2: Should the prices for real-time data access be published by the Australian Energy Regulator (AER)?

The AEMC proposes that the AER annually publish the price of accessing real-time data for each smart meter model, charged by each retailer to its customers, and by each MSP to retailers. We support the principle behind this proposal to ensure transparency for customers.

Given our concerns detailed in response to Question 1, it is unlikely this measure by itself will contribute to competitive pressure on prices sufficiently to outweigh:

- increased switching burden from introducing another separate source of information into what is already be a complex decision-making process
- costs and administrative burden for retailers and the AER.

Question 3: Do you agree with our proposed definition of real-time data?

We acknowledge the AEMC's finding, based on technical feedback, that providing validated real-time data would create too much of a lag. The AEMC has therefore not included validation as part of the definition.

If data is not validated, it is crucial that customers are given a clear understanding that data could be subject to change and may not reconcile with time-lagged and/or validated data (eg billing data).

We provided case studies in our response to the consultation paper indicating that consumers need accessible information about the data sets they engage with, including when and why data sets may not match. There must be a framework that requires retailers and MSPs to indicate real-time data quality – either in the rules or Australian Energy Market Operator (AEMO) procedures.

Question 4: Do you agree with the obligation on retailers to provide real-time data access?

We agree with the proposal that retailers be required to:

- offer real-time data access to all customers with smart meters
- explain the costs (if applicable) of enabling that access
- explain the benefits of access specific to customers' needs.

We also agree that the obligation should be neutral with respect to access method ie apply to access directly from the smart meter currently and, in the future, potential remote access options.

Our complaints involving smart meter installations and remotely read billing data indicate that customers in rural and remote areas disproportionately face issues such as:

- delays in meter installation due to factors including lack of technician availability
- chronically estimated bills due to poor telecommunications coverage.

The AEMC will need to consider how to avoid these customers being left behind and ensure the real-time data framework is accessible to all who wish to participate. Otherwise, similar issues will impact the retrofitting of smart meters for direct real-time data access and future remote access options.

Question 4C: Are additional obligations on retailers required to enable the provision of real-time data access to consumers?

Retailers should be required to explain when real-time data is not validated, is subject to change and may not reconcile with time-lagged and/or validated data (eg billing data). For example, without this requirement, retailers may have difficulty resolving billing disputes where customers believe that unvalidated real-time data is their 'source of truth' compared to validated billing data. This requirement should also be neutral with respect to access methods.

Currently, when a complaint cannot progress without an independent review of all available data, energy ombudsman schemes are able to obtain meter read data or interval data from retailers (and when required, directly from networks). As we detailed in our submission to the Consultation Paper, retailers can often face difficulty obtaining data from MSPs which impairs our ability to resolve complaints.¹ We must also be able to obtain all available real-time data records from retailers – and directly from MSPs when they are required to become EWO members.

Question 5: Do you agree that MSPs should ensure multi-party, interoperable and secure access to real-time data?

We agree that MSPs should ensure multi-party, interoperable and secure access to real-time data. The case studies we provided in our response to the consultation paper indicated that customers expect and value these characteristics, especially interoperability. We also agree with the proposal that AEMO develop standards which specify formatting and other communications protocols to

¹ [AEMC Rule change - ERC0399 - Real-time data for consumers Consultation Paper - joint EWO submission.pdf](#), pp3-4

ensure the data is understandable, useful and easily accessible by all customers seeking this data – and their needs will vary.

Question 5a: Are there requirements that we should impose on MSPs in addition to multi-party, interoperable and secure access obligations?

As with retailers, there should be a framework for MSPs to indicate that real-time data is not validated, is subject to change and may not reconcile with time-lagged and/or validated data (eg billing data).

Again, complaints reinforce that MSPs should now be required to be members of state energy ombudsman schemes to improve consumer outcomes and dispute resolution relating to the services they provide. If MSPs were members of energy ombudsman schemes, we would still expect retailers to effectively manage the relationship with the MSP including ensuring their cooperation in complaints resolution. However, we would have additional flexibility to resolve complaints where the issue rests with services that are the responsibility of, but not provided by, the MSP – including that in these circumstances, those MSPs will bear the cost of those complaints and therefore be strongly encouraged to address errors in these processes and systems. It would also allow systemic issues with MSPs to be identified, addressed and reported to regulators. The case studies we provided in our response to the consultation paper demonstrate how this would directly contribute to improved consumer outcomes.

Question 6: Which consumer consent pathway do you consider to be the most practical and why?

The AEMC is considering whether the pathway to verifying customer consent given to a third party should be retailer-centred or MSP-centred. A retailer-centred approach is the most practical and appropriate, given that customers already have a direct relationship with their retailer.

Power of Choice was built to have no direct relationship between the customer and the MSP, and the AEMC did not consider a change to this structure in its review of options to accelerate the smart meter rollout. The lack of direct relationship has been part of the justification for MSPs not needing to be members of state energy ombudsman schemes. **If the real-time data framework does introduce a direct relationship between MSPs and customers, it will make it even more pressing for MSPs to be members of state energy ombudsman schemes.**

Question 7: What should third party access consent look like?

The AEMC is considering the extent to which the rules should prescribe the form of customer consent for third parties to access real-time data.

Our complaints about disputed consent indicate that strong consent requirements are more likely to protect consumers than an overly light touch. They also help entities respond to and resolve complaints when they can demonstrate whether they have met a clear, regulated standard.

It is unlikely that Australian Consumer Law alone will be a sufficient fallback for consumers. The AEMC should seek advice about this from entities that are mostly likely to handle complaints relying solely on Australian Consumer Law, such as state-based consumer affairs bodies.

It is difficult to expand on our view until the framework develops further, such as a detail about how robust the verification pathway will be, and a decision about whether it will be retailer-centred or MSP-centred.

Question 8: Should additional requirements be placed on third parties that request access to consumer data?

See Question 9.

Question 9: What features of the CDR can we adopt?

Two of the requirements to become accredited in the CDR scheme are:

- have internal dispute resolution processes meeting the requirements of the CDR Rules (for most applicants. This means their processes must comply with provisions of the Australian Securities and Investments Commission's Regulatory Guide 271: Internal and dispute resolution)
- belong to a relevant external dispute resolution scheme.

If an accreditation scheme for third parties to access real-time data goes ahead, there should be similar requirements around internal and external dispute resolution.

These CDR requirements also highlight that it is unreasonable that similar minimum standards for internal and external dispute resolution do not to apply for MSPs – particularly in the event that the real-time data framework introduces any form of direct relationship between customer and MSPs.