EnergyAustralia
LIGHT THE WAY

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EnergyAustralia Pty Ltd
ABN 99 086 014 968

Level 19
Two Melbourne Quarter
697 Collins Street
Docklands Victoria 3008

Phone +61 3 8628 1000
Facsimile +61 3 8628 1050

enq@energyaustralia.com.au
energyaustralia.com.au

Ms Anna Collyer
Mr Tim Jordan
Ms Sally McMahon
Australian Energy Market Commission
GPO Box 2603
SYDNEY NSW 2001

Submitted electronically: https://www.aemc.gov.au/contact-us/lodge-submission

AEMC Directions Paper – Real time data for consumers – Public

EnergyAustralia is one of Australia's largest energy companies with around 2.4 million electricity and gas accounts across eastern Australia. We also own, operate and contract a diversified energy generation portfolio across Australia, including coal, gas, battery storage, demand response, wind and solar assets, with control of over 5,000MW of generation capacity.

We appreciate the opportunity to provide feedback on the AEMC's Directions Paper regarding real time data access.

EnergyAustralia supports the good intent behind the rule change, and while we do believe that there is some customer interest in usage data, we consider this is satisfied by existing usage data insights widely available in the market today on a 24 hour basis. For customers or third parties that are seeking real time usage data – existing access models like Powerpal are workable. We also continue to question the level of customer demand for real time data and the purported benefits of the rule change request given evidence suggests that customer demand for real time data (and the model proposed in the Directions Paper) will be extremely low (0.8% of customers).

Further, many of the CER related use cases originally cited in support of the rule change request, will not be achievable on the direct data access from the meter model proposed in the Directions Paper, and so these cannot be relied upon as benefits to progress the rule change and the benefits are likely materially reduced. We therefore still have significant doubt as to whether the benefits of the rule change outweigh its cost, and we do not consider it should proceed. This is particularly the case when there is already an enormous amount of reform in progress for the clean energy transition, and the cost of this reform will likely be passed onto customers when energy affordability is an acute issue in the context of a broader cost of living crisis. Compared to other reforms which go to broader market design and CER integration, this rule change does not appear to be a priority reform. Instead, other data stream work in the National CER roadmap should take priority – those streams focus on the data needed for the national electricity market and energy system as the clean energy transition occurs.

On costs specifically, we encourage the AEMC to obtain independent advice on the cost difference between a meter enabled with real time data versus one that is not. While this is not the only cost, it is a critical and pivotal piece of information which will inform whether the rule change should proceed, and the choice of cost recovery model (user pays versus spread across the customer base).

If the cost is material, then we would submit the rule change should not proceed, and if it does, the costs of it should not be spread across all energy customers.

We also consider that real time data, especially real time usage data, is sensitive and high risk data. Relying on general Privacy Act protections to ensure this data is protected from unauthorised disclosure will not be adequate. We firmly contend that the Confidential Information obligations that apply to Meter Data (which is usage data based on longer time intervals) under the National Electricity Rules should be extended to real time data, given real time data is usage data. Further, third parties accessing this real time data should be subject to these Rules. This would also allow the AEMC to directly impose obligations around customer consent, data security and data collection and use on third parties.

The above main points and other comments responding to specific questions in the Directions Paper are canvassed in our full submission below.

If you would like to discuss this submission, please contact me on 03 9060 0761.

Regards

Selena Liu

Regulatory Affairs Lead

EnergyAustralia submission

1. Benefits/use cases are still questionable and cannot be attributed to the proposed Directions Paper model

As per our submission to the Consultation Paper, we still have questions about the use cases, and there still appears to be a lack of strong evidence to suggest that demand for real time usage data is material. Conversely, the evidence provided by submissions continues to suggest that the demand for real time usage data is extremely low.

Regarding customer demand for real time data:

- Access to a device which provides more than the rule change (through the addition of a customer app showing data analytics of a customer's usage), shows uptake stalling at under 3.8% across the NEM or 11% in Victoria (where the device is free to customers).[1]

- Customer demand for the Directions Paper's specific direct or local data access from a meter model (direct access model) can be expected to be extremely low. Citipower, Powercor, and United Energy have provided very strong evidence on this point noting that Victorian smart meters already allow access to real time kW data through a Zigbee interface, and only 0.1% of customers are using the Zigbee interface across their three networks, and that this has decreased from a peak of 0.8%. Given the similarities in the Directions Paper model and Zigbee i.e. direct local access (no app), we believe that uptake of the AEMC's direct access model will be extremely low, and at best 0.8% of customers due to inherently low customer interest.

- These low percentages are corroborated by the extremely small percentage of customers which lodge requests to access their Meter Data (historical usage data) under the National Electricity Rules. [Confidential:

  ]. This number is a good proxy of customer uptake, because the process for requesting Meter Data requires the customer to engage and take action, which the Direction Paper's model will similarly require.

For completeness, we do not support Retailers or third parties being mandated to provide a customer ap, as this will not resolve the uptake problem caused by a low interest by customers in the first place. Mandating the provision of an app also runs counter to the objective of the rule change, which is to enable source data access so that the competitive market can then innovate and provide products and services, including data insight aps.

We also highlight that many of the submissions to the Consultation Paper were referring to use cases that would only be enabled by a remote access/centralised data hub model (remote/centralised data access), which the AEMC has decided to not adopt in its Directions Paper. This is particularly the case around CER use cases which appear to be the main driver behind the Directions Paper. The AEMC should recognise this distinction.

Specifically, the following CER/network use cases can only happen via a remote/centralised data access model and cannot be relied upon as support to progress the AEMC's directions paper:

- Dynamic connection or dynamic operating envelopes - An aggregator could negotiate to temporarily increase export limits (e.g. under a dynamic connection or dynamic operating envelope) for a customer if real time information showed exports of neighbourhood customers. This would require all customers in the neighbourhood to have opted in, and centralised sharing of information across the entire neighbourhood across all service providers for those customers. The direct data access model will not deliver these outcomes.

- Energy use and power quality data (PQD) for network planning and operation – Network load and export monitoring, consumer behaviour forecasting etc could only be provided via

[1] Uptake of Powerpal after a 5 year period. See EnergyAustralia's submission to the Consultation Paper, page 2

a remote access/centralised data hub, again across all customers, which the direct access model will not deliver.

We note that use cases like dynamic connection and dynamic operating envelopes and the data changes needed for them are being explored in other initiatives like the CER data exchange and other data streams of work under the National CER roadmap. These are the appropriate avenues to explore these market wide use cases which are closely connected to future market design, and are a higher priority compared to this rule change request.

We continue to have doubts around the benefit of potential use cases around CER optimisation and orchestration – these use cases are occurring now with currently installed hardware, without the rule change. Even for optimisation, which requires very frequent communication, the relevant measurement point is likely to be at the battery rather than at the customer's meter.

2. Costs need to be independently verified

As above, EnergyAustralia continues to have doubts as to whether there are material use case benefits or customer demand to support progressing the Direction Paper's proposal. We therefore question whether the benefits of the rule change will outweigh its costs.

On costs, the Directions Paper adopts a user pays model for upfront costs (enabling hardware and administration costs) for the first 15 years, which we agree with. This seems to address incremental cost only. We emphasise however that beyond upfront incremental cost, there will be other costs which Retailers and MSPs will incur. For retailer costs, these costs will involve:

- Initially setting up processes to field requests, including phone and online processes,
- Hiring FTE to process these requests, and
- establishing communication between retailers and MSPs, which could necessitate costly B2B changes or changes in MSATS.

These costs could be considerable and should be factored in. We also understand that there will be considerable fixed and sunk costs for MSPs in R&D to research new hardware/software required to enable the direct access model, which will be recovered from retailers and ultimately customers.

Beyond the 15 years, the AEMC has taken the position that user pays will not apply, and therefore retailers and MSPs will be incentivised to spread the incremental upfront cost across their customer base. **This is based on the assumption that meters will be at end of life, and the costs to then replace the meter with a real time data enabled meter will be minimal. As this is a critical and pivotal assumption, we suggest the AEMC obtain independent advice on this cost at a minimum to inform its Draft Decision,** and ideally that it conduct a full cost benefit analysis of the model proposed in its Directions Paper. If the cost is material, then we would submit the rule change should not proceed, and if it does, the costs of it should not be spread across all energy customers.

Costs aside, a more prudent approach for post-15 years would be to monitor customer/ third party uptake, and if uptake is increasing, adopting an general cost recovery approach across the entire customer base (as opposed to user pays) would then be appropriate.

3. Privacy and data security risks must be addressed

The AEMC's Directions Paper highlights that real-time data contains personal consumer information that could be misused by third parties. We strongly concur that this is a real and serious risk that must be addressed for the Directions Paper to proceed in an acceptable form. Real time usage data is sensitive and poses higher risks to misuse by recipients compared to other energy data. This is

because it would enable a recipient to determine if someone is home and to deduce how many people are home. This is particularly high risk in family violence scenarios and it is therefore critical that real time usage data is kept confidential and protected from unauthorised disclosure (or disclosures not consented to by the customer).

The AEMC appears to imply that real time data introduced by the rule change might not need to be specifically protected under the National Electricity Rules, because other usage data (measured by hardware often installed with CER installations) is not subject to specific protection and is only broadly protected by the Privacy Act 1988.

While we acknowledge that this logic is tempting, particularly to minimise the cost of the rule change, we consider that the protections under the Privacy Act are not sufficient. The Privacy Act only contains very broad privacy protections, including that Personal Information should only be disclosed for the purpose it was collected, unless the individual has consented to another use or disclosure. For data that is uniquely sensitive, additional specific regulation is often introduced. In fact, the sensitive nature of usage data is already recognised in the National Electricity Rules. Metering data (which is usage data) is defined as Confidential Information. Registered participants under the Rules must use reasonable endeavours to:

- keep confidential information confidential,
- not disclose that data unless permitted under the Rules,
- use information for the purpose it was disclosed, and
- not allow unauthorised persons to access it.

Energy Retailers also have additional obligations to address the risk of family violence and to not disclose Affected Customer Information to third parties without the consent of the customer. Affected Customer Information is any information that may be used to identify, communicate with or locate an affected customer, including information about their whereabouts. This could include real time usage data. The AER has jurisdiction to enforce these Rules.

Meter Data is essentially usage data that is stored and disclosed in longer intervals than real time data. Real time data therefore poses much higher risk to customers compared to Meter Data (in the case of confirming when customers are home). We therefore consider the appropriate and prudent policy position is to maintain a high level of protection for real time usage data, by extending the Confidential Information obligations in the National Electricity Rules to it. This approach will maintain consistency with how usage data is protected under the rules. It will also facilitate a level playing field where users of usage data (real time or not) are subject to the same level of regulation. Other alternative sources of real time data (from CER installations) should also be regulated and we will advocate this position, although we note that this is outside the purview of the AEMC.

We note that there is a current/future gap, where third parties or Customer Authorised Representatives, accessing usage data or metering data today[2] are not required to comply with the Confidential Information provisions under the NER. In line with Intellihub's submission to the Directions Paper, we believe that this gap should be resolved by creating a simple AEMO accredited service provider category to cover new third parties accessing real time usage data and allow regulation under the NER. We also consider this should be extended to existing Customer Authorised Representatives who can access Meter Data (usage data) today.

This would be light touch and low-cost to implement for AEMO and third parties. Accreditation would enable the AEMC to impose confidentiality obligations directly on third parties, and to also impose new requirements on the consent they need to obtain from customers and protections around how third parties can collect and use data. This approach would be more efficient from a regulatory design perspective, by imposing obligations and compliance risk directly on third parties that are best placed to mitigate those risks, rather than regulating it indirectly through Retailers/MSPs. Further, it would also allow the AER to take direct enforcement action against third parties which will also provide a better deterrent against non-compliance.

[2] Clause 7.15.5(d) and 7.15.5(f) and AEMO Metering Data Provision Procedures

Obligations around customer consent and around data collection and use (i.e. do not collect/use more than reasonably needed to provide the goods or services) could be informed by the Consumer Data Right Rules. Although we consider direct third party obligations for customer consent is the most effective form of regulation, for completeness, we discuss the AEMC's retailer-led and MSP-led models below.

4. Privacy risks around change of customer must be considered

We also identify another specific privacy risk around when a customer moves out which must be addressed before the Directions Paper can proceed. When a customer moves out, the real time data access should cease, to avoid sharing the usage data of the new customer that has moved in and breaching their privacy. Retailers should be aware of a customer's move out, but an MSP and other market participants will not be. This means that MSPs will need to have a mechanism which indicates when a customer moves out to then cease access to real time data. This information is not automatically shared between retailers and MDPs today. Even if a B2B transaction were built to facilitate sharing this information, the time taken for a retailer to record this information, and for the information to be relayed via B2B could be too slow, given that real time sending of usage data would require a real time update of this customer move out information. This will ultimately mean that usage data for the wrong customer will inevitably be shared in every move-in/out scenario. We are unable to identify a solution for this issue.

5. Comments on the detail of the Directions Paper

Definition of real-time data should be changed to support low cost solutions

The AEMC should revisit its definition of real-time data, prioritizing information that is genuinely valuable to customers while excluding data that could significantly increase costs with minimal benefit.

The Directions Paper proposes that real-time data be defined as 'voltage, current, and phase angle.' However, we consider that most customers simply need to understand their energy usage and do not require such detailed data. The AEMC should exclude phase angle data from the real-time definition.

[Confidential:

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The definition based on one second recording and delivery appears excessive relative to the use cases, and could potentially exclude many low cost hardware solutions. We recommend this issue be revisited in the AEMC's draft determination.

Retailer obligation to offer real-time data access to all customers and provide information should be done in a low cost way

The Directions Paper proposes a retailer obligation to offer real-time data access to all customers and explain to customers the benefits and costs specific to the customer's needs. While we understand the policy intent to alert customers to the availability of real time data, we doubt that this will resolve issues around the inherent lack of customer interest in real time data, especially where retailers servicing the majority of the market are providing usage data insights (with a 24 hour lag) via their online account or ap.

The costs of written communication, even for a one-off letter, should also be factored into the AEMC's decision, particularly the cost of hard copy letters. [Confidential:

]. To minimise this cost, incorporating the information into an existing communication – like a welcome pack or price change notice would be ideal, with a link to a webpage where they can find more information. The AEMC will also need to consider the cadence of the letter, noting that over-notification (i.e. annually) could lead to customer fatigue and disengagement.

Obligation to verify third party has obtained the customer's consent

As noted in our discussion above on Privacy and data security risks (section 3), we believe that the AEMC should consider an accreditation for third parties seeking access to real time data. This would effectively bring third parties into the National Electricity Rules jurisdiction and enable the AEMC to directly impose obligations around obtaining consent from customers on third parties (and further obligations around data collection, use and storage). Third parties could also be required to retain copies of consent which could then be auditable by the AER. This direct third-party regulation approach would be more efficient, and also fully negate any requirement for a retailer or MSP to verify that the third party has obtained the customer's consent.

If the AEMC does not take a direct third-party regulation approach, we would recommend the AEMC adopt the second most efficient option. The MSP is the primary party offering direct data access. Third parties will need to engage with the MSP for the initial request and then afterwards if there are issues with access, including device connection and then trouble shooting data stream issues. There is no intuitive reason for a Retailer to be involved in this process.

We would support the MSP-centred pathway in the AEMC's paper, where the MSP verifies the third party has obtained valid consent from the customer. As the AEMC states, this will reduce the number of parties involved by bypassing the need for retailer engagement. We also highlight that because there are only a few major MSPs it would also be more efficient for them to implement the process, rather than requiring over 30 electricity retailers to each implement a separate process.

The alternative, a Retailer-centred approach, is not necessary. We address some misconceptions and arguments in support:

- Retailers are better placed because they would need to verify that consent has been obtained by asking the customer to confirm they've provided consent to the third party. We consider that this would be excessive and tantamount to asking the retailer to obtain consent from the customer again, where the third party has already. This would also be unpragmatic and high cost to implement, leading to either open ended communication loops with the customer where they do not answer an attempted contact, or high development costs to implement this digitally via an app or email interface. We note that the Consumer Data Right does not require Data Holders to verify consent directly with the customer in this way, relying on CDR rules to regulate how consent is obtained by the third party. It is not clear why the NER should go further.

- We expect that the AEMC contemplates that the retailer or MSP would verify whether the third party has obtained customer consent by either asking the third party or requiring the third party to provide evidence. Both the retailer or MSP is in exactly the same position in being able to verify that the third party is responding honestly or in their ability to check that evidence.

- Some stakeholders note that only a retailer knows who the customer is or that they have the most up to date information on this. **However, today third parties (Customer Authorised Representatives) can lodge requests for a customer's Meter Data (usage data) with a DNSP (not just a retailer as the Directions Paper alludes to). In that case, DNSPs are required to verify a third party has obtained the**

customer's consent, without knowing who the customer is.[3] Requiring MSPs to do the same, would simply be an extension of the status quo for DNSPs under the National Electricity Rules. We understand in practice, DNSPs can simply check the customer's name, through the Customer Detail Notifications (CDNs) Retailers send to DNSPs – this could be leveraged in the MSP-led process as currently CDNs are also sent to MSPs. We also understand this CDN has an in-built protection for family violence scenarios, where the customer's name is anonymised.

10 business day and 20 business day timeframes should be changed to recognise retailer is reliant on MSP

The AEMC states that Retailers would be required to provide real-time data to a customer upon request:

- within 20 business days if a meter needs to be retrofitted or replaced or
- within 10 business days if metering infrastructure does not need to be upgraded

We understand that as the customer has no pre-existing relationship with the Metering Service Providers (MSPs), structuring the customer requests to be received by Retailers is a logical starting point. However, realistically a Retailer will only serve as the interface with the customer and is otherwise completely reliant on MSPs to fulfil the obligations. In practice, this will mean retailers will rely on contractual controls with their MC to implement this obligation. It also means that the AER as the enforcer of the relevant rules will only have recourse against Retailers, when direct avenues of enforcement against the MC would be appropriate.

As mentioned above, responsibility for compliance with obligations should reside with parties that are best placed to manage the risk of non-compliance. Accordingly, retailers should have obligations to initiate the request to the MC to either replace hardware or grant access to customers to existing hardware.

The MC or other MSP party should then have an obligation to:

- replace the meter or provide enabling hardware, or
- to grant access to an existing meter to a customer.

We take the first obligation to replace the meter as not including the requirement to provide access to data, in which case the first timeframe should be longer if it is meant to include it. The second obligation to grant access to an existing meter needs to reflect a reasonable time to process the customer's request by a retailer and then the MSP, and for the MSP to activate the access service.

If the AEMC is inclined to retain the current framing of the obligations, then we would urge the AEMC to change the Retailer's 10 business and 20 business timeframe to acknowledge that where an MSP delay means the Retailer cannot meet the timeframe, the timeframe is extended to as soon as practicable. Further, the obligation's timeframes should be extendable to reflect that longer timeframes are required to account for customer delays; or full exemptions are required where replacing the meter etc is not possible – drawing from existing exemptions in the NER where appropriate.

We do not support publication of MSP and Retailer upfront charges

The Directions Paper proposes that the AER should publish annual upfront prices charged by Retailers and MSPs for 15 years. EnergyAustralia does not support this proposal, as MSP charges are

[3] Section 2.1 of AEMO's Metering Data Provision procedures states that Retailer and **DNSPs** must identify and publish the information required from a retailer customer or **customer authorized representative** who requests meter data, including sufficient information to verify identity and relevant consents for retailer customers and customer authorized representatives. The procedures also state it is the responsibility of retailers and DNSPs to determine what needs to be done to ensure their Privacy Act obligations have been met.

commercially sensitive. There is no precedent in the NER for disclosing these types of contract details and it is unclear as to why this real time rule change would warrant different treatment.

The AEMC's objective behind the publication requirement is to provide price transparency to customers and third parties to drive price competition as customers and third parties will, in theory, be armed with information to choose lower cost providers. However, in practice, this might be flawed:

- Publication of MSP prices might have the opposite effect especially in industries with a small number of players like the MSP industry. If competitors have readily available access to pricing details, they might instead align their pricing levels rather than undercutting them, or it could otherwise discourage MSPs from offering discounts.

- It also might lead to a reduced incentive for innovation, where MSPs know that their prices will be published, they might be less incentivised to differentiate based on value and innovation, focussing instead on maintaining similar prices.

- Where the MSPs have different solutions i.e. where one MP does a full meter replacement vs installing additional hardware, publication of prices has negligible value as the prices cannot be compared on a like for like basis. At worst it could be misleading in implying that they are comparable. In a practical sense, this could result in customer confusion and poor customer experience where they gain the impression that cheaper options are available to them, when their existing meter won't support them. This will be difficult to solve through qualifications or explanations. For these reasons, we disagree with the publication of both MSP and Retailer prices.

B2B transactions might be required

As noted above, market participants will be incentivised to minimise the costs of this rule change to limit the bill impact to customers, including to avoid AEMO B2B changes. However, the AEMC should consider whether B2B changes are necessary to ensure that information is relayed between MSPs and Retailers in a sufficiently timely way, especially for customer move out scenarios so MSPs know to stop data sharing – see section 4 for a discussion of the issue. While EnergyAustralia wishes to minimise the financial impact of the change, the change might not be workable without B2B changes.

Other operational challenges

Real-time usage data also poses other operational challenges. It could lead to customer confusion as customers attempt to reconcile their bills with live data streams leading to misinterpretation by the customer and unnecessary disputes which will drive call volumes to Retailer call centres. Most customers are accustomed to Quarterly billing cycles, and introducing real-time data without a clear link to how charges are structured may result in higher complaints and disputes. This issue is further compounded because current billing is based on validated, market-settlement data; and real-time data will be unvalidated data – the two are not comparable.

There are also issues considering the customer journey flow, where a customer does not have a real time enabled meter. The customer will engage with the third party, only to be told to then arrange enabling hardware with a retailer. After that, they will then have to re-engage with their third party to let them know. The Third party would then obtain consent from the customer to then request data access from the MSP. At each step, customer drop off and friction will become an issue. This highlights that although well-intentioned, the direct access model might be impractical in reality which would further lower customer participation (which is already starting from a low base due to low customer interest).

Areas needing clarification in the Draft determination

- The Directions Paper is expressed in obligations based on providing real time data. The draft determination needs to be specific and specify what this means. We take this as meaning either the:

- Replacement of a meter or providing enabling hardware – can this only be requested by the customer and who is the request to (assume retailer)?

- Granting data access to an existing meter/hardware – it appears the customer or third party can request this, is that correct? Who is the request to (presumably MSP)?

- Upfront charge - The Directions Paper outlines that MSPs and retailers will be able to implement an upfront charge for access to real-time data, which is intended to cover the costs of enabling access. Based on our understanding of the two obligation categories above:

    - we consider the upfront charges should be based on the incremental costs of a new meter or enabling hardware, costs of installation, *and* any other administrative cost involved in processing a request incurred by the MSP or retailer.

    - Regarding granting data access to an existing meter/hardware, there are also upfront costs, mainly the administrative costs in processing a request, verification that a third party has obtained customer consent etc. These upfront costs should also be chargeable.

    The above approach would align with the AEMC's policy intent that upfront costs should be recovered from the users rather than spread across a retailer's customer base. This should be clarified in the draft decision.