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24 February 2025

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

Submitted electronically

Dear Mr Butterworth,

**Re: Directions Paper - Real-time data for consumers (ERC0399)**

Red Energy and Lumo Energy (Red and Lumo) are pleased to make this submission to the Australian Energy Market Commission's (the Commission's) Directions Paper on Real-time data for consumers.

Energy data is increasingly becoming available to consumers through the installation of smart meters and ancillary devices and access to this energy data already provides opportunity for consumers to make more informed decisions, when they choose to consider how and when they use energy.

In considering the Directions Paper, Red and Lumo see two primary use cases that should guide the Commission through this review. Firstly, access to energy data can help consumers to understand usage patterns and find a retail offer that suits them. Secondly, access to real-time data complements investments in consumer energy resources (CER), allowing consumers to participate in energy markets in new ways and as such, is an element of the energy transition.

However, the scale and timing of more active involvement remains highly uncertain. Access to real-time data may enable innovative energy products and services, primarily for those consumers with CER but the lack of demand for Powerpal energy monitors and the limited use of the Zigbee protocol in Victoria to this point illustrates that there is currently limited need for real-time data for the majority of consumers. This is consistent with our own experience, where many of our customers require further information before they are willing to become more active in these markets and / or accept greater risk. Therefore, Red and Lumo support the Commission's pragmatic approach to access to data in real time.

On the other hand, we have strong reservations about granting third parties with access to real time data in the absence of adequate controls. We see the potential for significant privacy and cyber security risks, noting retailers must comply with extensive protections to ensure they maintain the privacy and integrity of their customers' data and that there is no

threat to their personal safety (arising from the risk of family violence, for example). It is here that the Commission must consider options that protect consumers who do provide access to data but also to those consumers who have not chosen to actively participate and are unaware of third party access to their energy data.

In particular, where a consumer is affected by family violence, retailers must have the opportunity to limit access to real-time data. In the more general instance, there must be a means to revoke access to real-time data to protect those who move into a property where a meter is providing a stream of information to devices about their presence, consumption and activity without their explicit informed consent. The Commission should also consider whether consent to provide access to a third party is time limited and is revoked upon switching.

### **Real Time Data should be available to consumers who want to participate**

While access to energy data provides consumers with the opportunity for greater understanding of their consumption patterns, the extent of active interest is low and likely to remain so for some time. This is because energy data alone offers little insight without considering how, where and when the consumption is occurring. Of equal or greater value to the majority of consumers is education about the use of appliances and the times at which they are used; illustrating that appliances which generate heat are the most costly, that insulation, curtains and draft excluders help keep buildings cool as well as warm, and that the time of day may be relevant to the price we pay for energy.

Retailers currently provide access to energy data alongside usage and billing information. Retailers also continue to assess the form in which they provide this data and the mechanisms through which consumers receive it. Means of accessing this confidential energy data are expanding as retailers develop secure web and mobile applications, alongside opportunities to discuss consumption and usage patterns and where requested, provide detailed energy data for consumers or their agents to digest.

We note the lack of demand for real time access over the past four years that Powerpal energy monitors, which were provided free to eligible homes in Victoria, have enabled. In our experience, the majority of consumers use these devices to track the energy use of specific appliances (as described above). The Commission also notes the limited uptake of ZigBee protocol, available for residential application for over ten years.<sup>1</sup>

The use cases supporting real-time data primarily benefit those consumers who have solar, battery storage and other CER that can respond in real-time to available inputs. To best develop the opportunity for these consumers and to support the energy transition, industry stakeholders need to develop an interoperability standard for access to real-time data to

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<sup>1</sup> See Digicom, '*The History of Zigbee*', available at <https://www.digi.com/solutions/by-technology/zigbee-wireless-standard>.

minimise the cost to all and support competition. This should be a core element of the Federal Government's Consumer Energy Resources Roadmap

Within this context, Red and Lumo support the Commission's view of a staged transition to consumer access to real-time data from smart meters because it balances the costs and benefits to consumers over time. Those who see benefit in access to real-time data should have the opportunity to seek the most cost-effective solution for them available from the market. However, the suggestion that the AER should publish both retailer and metering service provider (MSP) charges to enable access to data is problematic in a commercial market since each retailer may offer different services in combination with different metering parties.

Consumers do not have a direct relationship with MSP and therefore Red and Lumo do not support either the suggestion that MSP should confirm consent for third parties to access or that they should be obliged to publish their charges to enable access to real-time data.

### **Privacy and cyber security are critical**

As noted, our primary concern arising from the Directions Paper is how any regulatory change will also provide the appropriate protection of consumer data. More specifically, we have reservations about the Commission's suggestion that consumers can consent to the release of real-time data to a third party. The potential sensitivity of this data was a significant area of focus as the Government extended the Consumer Data Right (CDR) to energy. We and many other energy stakeholders noted the sensitivity of meter data and that it could be used to monitor consumption patterns, the number of people residing at a particular premises, employment patterns and other absences from the premises.

The Privacy Impact Assessment for the CDR concluded that the risk of misuse of meter data in that context was relatively low (at least in comparison with other CDR energy datasets) but this reflected an assumption that meter data was not available in real time.<sup>2</sup> However, it also concluded that *'as the scope of the energy datasets widens in the future ... and the more real-time granular data that smart meters provide, this risk may materialise and impact on individuals'*.

We continue to hold the view that meter data, irrespective of whether it is available in real time or in line with current processes, is sensitive and should be the subject of specific controls. The Commission is also aware of the additional obligations on retailers to ensure they provide appropriate protections to consumers experiencing family violence over and above standard privacy protections.

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<sup>2</sup> KPMG (2000), *Consumer Data Right in the Energy Sector, Supplementary Privacy Impact Assessment for the Commonwealth Department of Treasury*

The Australian Energy Regulator recently issued revised guidance for retailers on its expectations with respect to their compliance with family violence protections, which will coexist with expanded reporting obligations. The Commission must account for this as it considers the controls that should apply when consumers are considering whether they will grant access to third parties.

Retailers hold the relationship with the customer, obtaining consent for the sale of energy to their premises and requesting energisation by the metering coordinator when required. It follows that retailers should also record customer consent to access real-time data from the meter and request the capability be enabled or disabled. To suggest that a metering party would manage this imposes a significant cost to industry by requiring metering parties to develop systems for customer relationship management and consent management.

The National Energy Rules (the Rules) identify energy data as confidential information and not to be provided to anyone outside of obligations under the Rules, the National Energy Retail Rules (NERR) or jurisdictional electricity legislation. However, the Directions Paper discusses the challenges that would arise if it sought to apply similar controls to those that currently apply to designated energy data and to Accredited Data Recipients under the CDR (noting these controls cover a broader range of datasets, including personal information). Despite this, we strongly recommend the Commission consider appropriate controls to ensure the protection of consumers who have granted consent to a third party or those whose data is available inadvertently (due to the actions of another consumer, for example).

An accreditation scheme for third parties seeking access to meter data that imposes similar obligations to the CDR would be challenging to implement through this consultation. Even so, we recommend a level of control over the energy data provided by the meter that the Directions Paper does not currently consider.

A significant issue is the treatment of the real time data stream. To protect consumers who move into a premises, there must be a means to enable or revoke any access to real-time data that a previous resident has provided. This might be through a B2B request. It is also arguable that access should be revoked when a consumer switches retailers as consent was provided to the losing retailer.

Crucially, retailers also manage the relationship with any customers affected by family violence, holding the obligation to support them and responsibility for securing their information. As proponents for the changes to the NERR which protects those affected by family violence, Red and Lumo strongly urge the Commission to consider the ongoing protection of affected customer information and how access to real-time data is managed to prevent a disclosure that could risk the personal safety of consumers. At the very least, retailers should have the ability to refuse to comply with a request to provide data access to a third party if they have any reasonable basis to believe that it could jeopardise a customer's physical or financial safety. This exists under the CDR Rules.

A further issue for the Commission to consider is the nature of any consent that a consumer provides to a retailer and authentication of that consent. It should be explicit and informed but the Commission should also consider whether it applies to a single set of data, apply for a prescribed period of time and the circumstances under which it might be withdrawn. Under CER, for example, residential consumers can provide consent for a one off transfer of information or enduring consent for ongoing access for a maximum of 12 months. This might depend on the use case for which third party access is required.

### **About Red and Lumo**

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail electricity and gas in New South Wales, Queensland, South Australia, Victoria and in the ACT to over 1.4 million customers.

Red and Lumo thank the Commission for the opportunity to comment on the draft determination. Please contact Sean Jennings on 0403 846 585 or me on 0438 671 750 if you wish to discuss or have any further enquiries regarding this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read "G Hargreaves".

**Geoff Hargreaves**

Manager - Regulatory Affairs

**Red Energy Pty Ltd**

**Lumo Energy (Australia) Pty Ltd**