

Level 27, 135 King Street
Sydney NSW 2000
GPO Box 3131
Canberra ACT 2601
tel: (02) 9230 9133
www.aer.gov.au

Our Ref: 18003998
Your Ref: ERC0399
Contact Officer: Darcy Searl

24 February 2025

Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
SYDNEY, NSW, 2001

Dear Ms Collyer

Re: Real-time data for consumers directions paper

The Australian Energy Regulator (AER) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) directions paper on Real-time data for consumers.

In general, the AER supports the proposed approach in the directions paper which aims to improve real-time data access for consumers and third parties. We recognise the benefits this framework may provide in empowering consumers to better understand and manage their energy usage, make informed energy decisions and harness the value of Consumer Energy Resources (CER) in the transition to net zero energy system.

The AER acknowledges that demand for accessing real-time metering data is currently low, driven by factors including high costs, a lack of consumer awareness and limited product offerings. To encourage consumer uptake, it will be important that the proposed framework establishes a clear value proposition to prospective customers individually and to the system as a whole.

The framework could achieve this by ensuring access to real-time data is affordable and accessible. For instance, the regulatory settings should put downward pressure on the costs that consumers must pay for accessing real-time data over time. Additionally, real-time data products and services must present data in a way that is easy to understand and actionable, such that consumers are empowered to better manage their energy usage.

It is also important that the framework contains appropriate safeguards as consumer uptake increases and new real-time data products and services emerge. Effectively balancing these objectives would serve the long-term interests of consumers and contribute to the vision of a consumer-centric and net-zero energy system.

In light of this need to demonstrate the value proposition, this submission focuses on key design considerations, implementation challenges, and potential consumer impacts associated with improving access to real-time data for consumers and third parties. We look forward to exploring these in further detail with the AEMC and stakeholders as this rule change process progresses.

Proposed transitional fee for access to real-time data

In our submission to the consultation paper,¹ we proposed that the costs of accessing real-time data could be spread across all consumers through retailer bills, without requiring consumers to pay direct fees. However, based on the AEMC's further changes in the directions paper which highlights changes to the definition of real-time data, the large upfront costs associated with retrofitting existing smart meters, and current low demand for accessing real-time data — our original position has evolved.

On balance, we now consider a transitional fee to be reasonable in the short term as the cost of accessing real-time data is likely to exceed the incremental benefits for most consumers. During this transitional period consumers should have the choice to purchase real-time data when it benefits them. The transitional fee will help ensure that consumers who do not want or need real-time data are not subsidising access and benefits for more engaged consumers or those who have CER. However, we consider that the transitional fee should be based on the reasonable cost of any retrofit to encourage uptake by consumers.

To ensure equitable access, we recommend that during the proposed transitional period, customers identified as experiencing payment difficulty and or hardship should not be charged a fee to access their real-time data. These consumers often face financial barriers that do not allow them to access the necessary assistance they need to help them manage their energy usage and reduce their energy costs. Stakeholder feedback from the AER's Review of Payment Difficulty Protections in the National Energy Customer Framework indicated that provision of energy efficiency tools, such as smart meters, would be beneficial for consumers experiencing payment difficulty to monitor and manage their energy usage.² As such, removing the transitional fee for these consumers could improve their engagement with energy efficiency tools, support more effective energy usage and potentially lead to lower energy costs.

AER function to publish the price of accessing real-time data

We note the AEMC's directions paper proposes the AER should be required to annually publish the price of accessing real-time data for each retailer and Metering Service Provider. We acknowledge transparency in pricing would help promote competition between Metering Service Providers to lower the cost of accessing real-time data and provide consumers with price transparency to identify lower cost alternatives.

The AER is open to exploring options with the AEMC on how prices to access real-time data can be published. However, we consider that the proposed measure of publishing prices

¹ AER, [Submission to AEMC Real-time data for consumers](#), December 2024.

² AER, [Review of Review of payment difficulty protections in the National Energy Customer Framework Issues paper](#), May 2024, p38

alone may not be effective to provide transparency and monitor the costs customers must pay to access their real-time data.

The costs of accessing real-time data may vary significantly between customers depending on their individual circumstances. For example, variances in meter location and type, the connection characteristics, and availability of Wi-Fi or other connective technology, may lead to different prices for accessing real-time data. As a result, the price published may only ever be an indicative estimate, such as for a 'typical household customer,' and it may be difficult for a consumer to effectively compare retailers or Metering Service Providers.

Further, the AER's annual price reporting schedule may create a lag between the AER's reported price and Metering Service Providers actual price for accessing real time data. The possibility of inaccurate information has the potential to create confusion for consumers and introduce friction when consumers attempt to compare and potentially switch retailers if they are unsatisfied with their current retailer's price for accessing real-time data. These issues, if not appropriately addressed, may potentially discourage consumers from accessing real-time data.

We would welcome the opportunity to work with the AEMC to explore how these concerns could be addressed.

Definition of real-time data

We have concerns that the amended delivery timeframe, from five minutes to within a second, may introduce significant additional implementation costs while the use cases for this more granular functionality are still emerging. We acknowledge that the AEMC's direction paper finding that some real-time data products and services require instantaneous data points to provide effective and responsive services for both consumers and the grid. However, there is a risk that amending the delivery timeframe increases complexity and the potential costs of instantaneous data may outweigh its advantages, especially considering the current low demand for access to real-time data. Further analysis may be needed to evaluate whether, in the short term, instantaneous data provides sufficient value to justify its implementation when compared to other delivery timeframes, including 300 second or day-lag data.

The definition of real-time data should allow consumers to easily understand and act on their metering data. We consider that the directions paper does not explain how the proposed data points of voltage, phase angle and current would be presented in a way that is accessible and meaningful to consumers. Without clear guidance on how these metrics will be communicated and interpreted, there is a risk that consumers may not be able to harness the value of accessing real-time data such as by effectively changing their energy usage, or understand how such real-time could be utilised by retailers or service providers to unlock value for them. The AEMC may wish to explore how these data points could be combined to provide consumers with more valuable insights related to historical usage patterns, identifying inefficient appliances and forecasting future energy consumption trends.

Obligations on retailers

The AER supports the requirements for retailers to offer real-time data access to all customers with smart meters. These obligations will help to ensure that all consumers, not just the most engaged, can access and benefit from real-time data. This would help facilitate a more seamless process for customers to obtain real-time data and support greater integration of CER.

The AER notes that the proposed requirement does not specify a timeframe for retailers to offer to customers access to real-time data. We consider this requirement could be

strengthened by establishing a clear time period within which retailers must initially provide information about accessing real-time data to existing smart meter customers. This would ensure consumers receive timely information on the costs and benefits of real-time data access, empowering them to make informed decisions to manage their energy use.

Additionally, the AER suggests that retailers could also be required to provide information about real-time data access to new customers when they sign up or when customers switch plans within the same retailer. This would help ensure ongoing awareness particularly for less engaged customers.

The AER considers that these communications should be presented in plain English, with other accessibility features for diverse consumer cohorts including translation services and support for consumers with a disability.

Consumer Data Right

The AEMC's directions paper has cited in extending the Consumer Data Right (CDR) to include real-time data, including the length of time required to change the framework and the fact this exists outside of the AEMC's rule-making powers. While we acknowledge these concerns, we consider extending CDR to include real-time data warrants further consideration. Creating a bespoke framework for real-time data access would likely be costly, complex and time-consuming, requiring the exploration of privacy and technical issues that the CDR has already addressed. There is also a risk of duplicating existing regulations for the energy sector and creating a confusing data-sharing landscape for consumers.

The CDR is Australia's national data portability initiative.³ We consider expanding the existing CDR functionality to provide real time energy data sharing has a number of advantages. The CDR framework provides robust consumer protections, including consent-driven data sharing, requirements for authentication and authorisation, restrictions on what data can be collected and how data can be used and shared, and strong information security requirements. The CDR also has an established legal and technical framework which includes a data standards body, and Data Recipient Accreditor, as well as an active compliance and enforcement program.

The CDR was designed to be an adaptable framework that could expand to include different sectors and diverse datasets. Extending the CDR's functions to real-time data would offer significant advantages for consumers, giving them greater control over their data and ensuring market participants comply with robust data protections and standards.

While making changes to the CDR are outside of the AEMC's rule-making powers, there is still merit in exploring whether there would be efficiencies in expanding the CDR's application in the energy sector to include real-time data.

Particular elements of the CDR which are relevant to the consultation are discussed below, including consent pathways, third party access frameworks, and accreditation.

Consent pathways

Given the established relationship between retailers and customers, we believe that retailers are best positioned to obtain consent from consumers. A retailer-centred approach would ensure that consent is obtained efficiently and the potential for consumer harm is minimised.

³ E Kelly PSM, '[Statutory Review of the Consumer Data Right](#)', *The Treasury*, 2022, p.3.

A retailer-centred pathway would be the most efficient way of obtaining consent because retailers already possess the contact information of their customers and have established systems and processes in place for recording other types of consent. This means retailers would not have to verify the identity of the person they are engaging with to confirm they are customer of the relevant meter.

Energy retailers are designated CDR data holders. The CDR already has a working framework for retailers to verify consumers ('authentication') and a robust consent process. The CDR also requires AEMO to share data through energy retailers in order to provide consumers with their data. These models and the existing standards could be leveraged and replicated for Metering Service Providers under a retailer-centred pathway.

In contrast, Metering Service Providers do not currently have access to customer contact details and would need to contact a customer's retailers to get access to this information. This introduces an unnecessary communication pathway and would require coordination between Metering Service Providers and retailers that could cause delays in obtaining consent.

Additionally, a regulatory framework that places the onus on Metering Service Providers to verify consumer consent could exacerbate risks for customers affected by family violence. Metering Service Providers would not be aware of customer accounts that are affected by family violence and as such would not have additional protections or steps in place to minimise the risk of perpetrators accessing this data (or other data relating to the affected customer e.g. their contact details). Comparatively, a retailer-centred approach would ensure customers affected by family violence are communicated with through preferred channels and that their personal information is appropriately protected, without the need for the customer to disclose to another party that they are affected by family violence.

Third-party access framework

The AER acknowledges that a standardised approach to third-party access would benefit consumers by ensuring consistency in accessing consent and establishing a minimum standard of requirements for third parties. The AER considers that this standardised approach should also apply to retailers to ensure consistent consumer protections regardless of the method of access.

The AER considers that a standardised approach could require third parties and retailers to satisfy certain conditions when obtaining consent to access a customer's real-time data. This could include the provision of a privacy notice which contains clear statements about any secondary uses of a consumer's data, including whether the third-party can sell consumer data or use it for advertising purposes. As noted above, these communications should be presented in plain English with additional accessibility features for diverse cohorts.

There should also be a clear and easy-to-follow process if a customer wants to withdraw their consent. For example, it should be clear in the consent process who a customer should contact to communicate their intention to withdraw consent. Additionally, there should be a set timeframe within which access to the data needs to be ceased for a consumer or third party after consent is withdrawn. This timeframe should be the shortest timeframe reasonably achievable to minimise the amount of data provided once consent has been withdrawn.

The CDR offers an existing solution to many of these implementation concerns. The existing CDR standards define technical requirements for data sharing and the legislated objective of consent in the CDR is that it is voluntary, express, informed, specific as to purpose, time-

limited and easily withdrawn⁴. CDR requires explicit, plain English privacy information to be presented to the consumer at the point of consent, and data recipients may only on-share data to external third parties with a consumer's consent. The process for withdrawing consent is well-defined in the CDR and can be easily initiated by the consumer.

Lastly, when multiple account holders have access to the data, there should be a process for suspending access for specific individuals. For example, if one account holder moves out of the premises, there should be a mechanism to cease their access while allowing continued access for the remaining customer(s). This is particularly important for customers affected by family violence, where a customer may request to have a perpetrator's access terminated while maintaining their own access to the data.

Accreditation

The AER considers additional requirements for third parties that request access to consumer data are necessary to prevent breaches of consumer privacy and cyber security risks. A clear accreditation scheme for third parties could ensure protections against these risks by ensuring that third parties cannot illegally disclose or on-sell the data. It could also help minimise the risk of consumers being scammed out of their data that could be used by bad actors.

An accreditation may also provide the AER with the option to pursue compliance and enforcement action against third parties who use real-time data in contravention of the NER (including in relation to confidentiality provisions). This may benefit consumers by deterring third parties from misusing real-time data.

Accreditation is a key feature of the existing CDR framework. To receive data, data recipients must satisfy robust accreditation requirements, including a fit and proper person test. Accredited persons must also have adequate insurance to compensate consumers from reasonable losses. There are also bespoke privacy safeguards that set stringent requirements for the privacy, information security, and use of CDR data. There are ongoing requirements data recipients must meet to maintain their accredited status and the ACCC, as the Data Recipient Accreditor, has the power to suspend or revoke accreditation.

Continued engagement

We appreciate the opportunity to provide feedback on the directions paper and are available to discuss our comments further if needed. Darcy Searl can be contacted on

[REDACTED]

Yours sincerely

[REDACTED]

George Huang
A/g General Manager
Policy

Sent by email on: 24.02.2025

⁴ See Rule 4.9 of the *Competition and Consumer (Consumer Data Right) Rules 2020*.