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**To** Energy Ministers  
**By email:** [ElectricityConsultation@industry.gov.au](mailto:ElectricityConsultation@industry.gov.au)  
**Date** 14 October 2021  
**From** Con Hristodoulidis, Senior Manager Regulatory Manager  
**Subject** Consumer Data Right for Energy – review of proposed amendments

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AGL Energy (**AGL**) welcomes the opportunity to provide a response to the consultation on the Consumer Data Right (**CDR**) for Energy: National Electricity Law<sup>1</sup> (**NEL**) and National Electricity Rules<sup>2</sup> (**NER**) Amendments dated September 2021 (**Consultation**) accompanied by the Explanatory Note for Stakeholder Consultation<sup>3</sup> (**Explanatory Note**). AGL is a leading integrated essential service provider, with a proud 184-year history of innovation and a passionate belief in progress – human and technological. We deliver 4.2 million gas, electricity, and telecommunications services to our residential, small and large business, and wholesale customers across Australia.

AGL has been a consistent and vocal supporter of the CDR regime as an economy wide model that enables consumers to have access to, and control over, data that directly relates to them. This should underpin industry innovation in service delivery both within and across the CDR sectors. AGL believes that for a successful roll out of the CDR in the energy sector, the framework which underpins the regime must align with industry advice and practice and allow for efficiencies in its design.

In reviewing the proposed drafting changes to the NEL and the NER, AGL recommends the following changes be made. Our recommendations are based on the principle underpinning the proposed changes, mainly the changes are required to enable the efficient implementation and operation of the energy CDR designation. Any proposed changes that do not facilitate this principle should not be pursued through this process but rather considered as separate energy law and regulation changes through the normal energy regulatory framework, mainly the Australian Energy Market Commission (AEMC) rule making process.

### **NER and NEL proposed drafting changes**

AGL understands the inclusion of CDR functions to the list of AEMO's statutory functions as set out in the new section 49(l)(f) of Schedule 1 of the NEL, and the general requirement to comply with the CDR as set out in the new Rule 8.6A of the NER. Beyond these broad changes to facilitate the CDR within the energy framework, AGL questions the need to explicitly detail AEMO's specific CDR functions and in some parts, does not support the inclusion of proposed amendments as set out below.

### **Duplication of the requirement to provide NMI standing data**

AGL does not support the inclusion of “*NMI standing data*” within the Metering Data Provision Procedures (**MDPP**) as proposed by the changes to Rule 7.14 of the NER and as set out in the proposed amendments 3, 4, 5, 6, 8 and 11 of the NER. This change is not required to facilitate AEMO's provision of NMI standing data under the CDR framework. Further, it impacts the current requirements around customer access to metering data (**CAMD**) as set out under the MDPP by duplicating the data sought under the CDR framework into this

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<sup>1</sup> As set out in Consultation document: the draft National Electricity Law Amendments (Consumer Data Right), Parliamentary Counsel's Committee's Draft d02 and d03 dated 24 August 2021.

<sup>2</sup> As set out in the Consultation document: the draft National Electricity Amendment (Consumer Data Right) Rule 2021, Version 02, dated 3 August 2021.

<sup>3</sup> Consumer Data Right for Energy, National Electricity Law and Rules Amendment, Explanatory Note for Stakeholder Consultation, September 2021.



process and as a result, is unnecessary and poses significant industry costs while also diluting the protections and benefits of CDR for consumers.

The CDR regime is designed to allow for customers through Accredited Data Recipients (**ADR**) to request certain designated data from retailers with a strict process centred around security controls to ensure customer protections in verifying customer consents and the adherence to data standards in the exchange of data between ADR's, retailers as data holders and AEMO as a secondary data holder.

By replicating this requirement, it is facilitating access to data sets designated under the CDR regime through a separate avenue outside of the CDR framework and by doing so, allows customers directly or through third parties providers (if authorised) to access customer data without the protections which are deemed pivotal to and underpin the success of the CDR. The change proposed could allow third party businesses to avoid becoming ADR's or circumvent accessing data through an ADR. It could also lead to greater costs incurred by retailers in the provision of data under both frameworks with no benefit to customers.

The CAMD process should remain as currently set out in the MDPP to avoid compromising the security controls, the necessity of ADR's and the validity of the CDR.

#### **Rule 7.14(b) of the NER**

AGL does not support the removal of the word "*minimum*" in the proposed amendments to the rule. On the face of it, deleting this word appears to be of minor impact, however, "*minimum*" needs to be retained due to the ramifications relating to the MDPP which ensures a consistent base line by which retailers must provide metering data on request by a customer or their authorised representative<sup>4</sup>, and how retailers receive data. Removal of "*minimum*" also removes any flexibility above which retailers can comply with their obligations under these procedures.

Further, the MDPP allows a retailer to provide metering data to the customer or an authorised customer representative following a customer request within 10 business days<sup>5</sup>, this timeframe does not need to be aligned with the CDR which is a separate avenue for customers to seek their data through an ADR. AGL does not agree with the intention of this change to, "*encourage convergence over time to a single fit-for-purpose detailed data format as it will allow AEMO to specify a single format, while maintaining the flexibility of minimum requirements...*"<sup>6</sup>. This is not required as they are two separate data retrieval processes maintained under separate IT systems with separate regulatory frameworks, so convergence is not required nor necessary over time.

Any change required to the MDPP should be conducted through the appropriate Procedural change process AEMO has in place, thus allowing proper due process for market participants to respond, rather than these changes to the NER being initiated on the basis of CDR requirements which may not be visible to or may fail to garner responses across energy market participants.

#### **Schedule 2 clause 8A**

AGL does not support the inclusion of the Commonwealth Scientific and Industrial Relations Organisation (**CSIRO**) being a recipient of *Protected Information* as set out in the additional change to the *National Electricity (SA) Regulations* by the new clause 8A of Schedule 2, NEL. AGL does not support the reasoning

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<sup>4</sup> As set out in clause 2 of the MDPP, Version 2.0, 1 July 2021.

<sup>5</sup> As set out in clause 2.2 (a) and 2.3(a) respectively.

<sup>6</sup> Explanatory Note, page 6.



for this change nor inclusion under the guise of necessary CDR amendments to the law and relevant regulations.

Whilst the change may support and enhance AEMO's demand forecasting capabilities through the MCE work streams and priorities including the National Energy Analytics Research (NEAR) Program, this amendment is not required to facilitate the CDR in the energy sector as acknowledged in the Explanatory Note but rather included as a convenience<sup>7</sup>. We recommend that this proposed amendment be deleted, and the change be consulted on independently through the Energy Security Board's (ESB) recent Energy Data Strategy announcement.

### **Register of DER information**

AGL questions the necessity for the proposed amendment of the new sub-rule (qa) to rule 3.7E of the NER as rule 3.7E(e) provides AEMO with authority to exercise its statutory functions under the NEL or NER, which with the inclusion of the overarching provisions incorporating CDR<sup>8</sup> is already covered.

As always, we are happy to discuss further if you have any questions in relation to AGL's response, please feel free to contact me or Sarah Silbert, Regulatory Strategy Manager on [SSilbert@agl.com.au](mailto:SSilbert@agl.com.au) .

Kind regards,

(Submitted by email)

Con Hristodoulidis

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<sup>7</sup> Explanatory Note, page 7.

<sup>8</sup> As referred to above in the opening paragraph, the new section 49(l)(f) of the NEL and rule 8.6A of the NER.