

11 June 2014

Mr John Pierce
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Lodged electronically: www.aemc.gov.au

Dear Mr Pierce,

RE: Consultation Paper Customer Access to information about their energy consumption Rule 2014 (ERC0171)

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide feedback in response to the consultation paper on Customer access to information about their energy consumption Rule 2014 (the **Consultation Paper**).

The ERAA represents the organisations providing electricity and gas to almost 10 million Australian households and businesses. Our member organisations are mostly privately owned, vary in size and operate in all areas within the National Electricity Market (NEM) and are the first point of contact for end use customers of both electricity and gas.

This Consultation Paper is in response to a recommendation from the Australian Energy Market Commission's (AEMC) Power of Choice final report¹. The ERAA has broadly supported recommendations from the Power of Choice that promote efficient retail markets and improve consumers' awareness of their electricity consumption. However, we are of the view that this rule change is largely not required and will impose an unnecessary regulatory burden on retailers with minimal benefit to customers.

The key objectives of the rule change outlined in the Consultation Paper propose to:

- clarify entitlement and access to data by customers or parties authorised by customers
- require the Australian Energy Market Operator (AEMO) to develop data provision procedures
- require retailers and distribution network service providers (DNSP) to publish consumption data on their respective website in accordance with a data protocol
- require the Australian Energy Regulator (AER) to develop a Metering Data Common Terminology Guideline for electricity consumption data.

The ERAA's response to the Consultation Paper cites the AEMC consultation paper on expanding competition in metering and related services (Metering Reform). The ERAA makes reference to the Metering Reform due to the fundamental changes proposed in the Reform which will influence outcomes from this Consultation Paper. These respective consultation papers should complement each other and therefore it is important for the

¹ AEMC, Power of choice review – giving consumers options in the way they use electricity final report, 30 November 2012, p.51.



AEMC to holistically consider input from stakeholders to both rule changes prior to formulating its draft rule determination.

Proposed Assessment Framework

The ERAA supports the proposed assessment framework and notes the requirements under the National Electricity Law (NEL) and the National Energy Retail Law (NERL) to ensure that the proposed rule change contributes to the achievement of the National Electricity Objective (NEO) and National Energy Retail Objective (NERO). The ERAA does not believe that parts of the proposed rule change add the value required to be in the long term interests of consumers.

Customer access to its electricity consumption data

Distribution Network Service Provider (DNSP) NER Amendment

The National Electricity Rules (NER) currently enables consumers to access their consumption data by requesting this data from their retailer². The ERAA supports the expansion of the NER to allow for the ability of consumers to also seek this data from both DNSPs and Metering Data Providers (MDPs), subject to suitable consent being provided.

This is pertinent as DNSPs and MDPs have access to historical consumption data at a site, irrespective of the relationships that a consumer may have had with multiple retailers whilst at that site. In a scenario where a customer has requested two years' consumption data and switched retailers six months prior to this request, the current retailer is only able to provide data for those last six months. However, whilst the customer remains at a site, they remain connected to the distribution network, irrespective of the retailer. Therefore the DNSP is able to fully meet the customer's data requirements where they have established that the same customer was at this site for the period of data requested.

The ERAA notes that the AEMC metering reform proposes to ring fence a DNSP's metering services from the monopoly poles and wires business. This proposal will need to be taken into account when formulating the rule changes to provide the DNSP responsibility for data provision, as well as how such an activity will be funded.

Raw and Summary Format Data

The ERAA does not support recommendations made by the COAG Energy Council to require participants to provide customers with their consumption data in raw and summary format. The market has evolved significantly since the recommendations from the Power of Choice were endorsed. Whilst consumers have access to raw data under the NER, many retailers, as well as some DNSPs, have invested significant resources in deploying new informative tools summarising this data in a format suitable for customer understanding. The ERAA would not support the creation of a new summary format as this would require significant system re-engineering by the industry with limited benefits to consumers. The ERAA does not believe that this proposal will meet the NEO and NERO.

The ERAA has always advocated that regulation should only be introduced where there is notable evidence-based market failure. As the market, without any form of regulation, is currently meeting consumer needs for the provision of consumption data, the ERAA would not support regulations that would restrict innovation in the ongoing market development of these tools. Moreover it is our understanding that the individual requests from small customers for interval meter data is minimal and certainly does not justify any new regulatory provisions. This is especially evident in Victoria, where the use of DSDBI's My Power Planner web portal has had limited use by consumers for individual customer data. Most consumers simply using the profiler to support their flexible pricing assessment.

² Consultation Paper, Customer access to information about their energy consumption p.12.

Requirements for summary data

The COAG Energy Council has recommended that customers on accumulation meters be provided “net distribution system load profile” information so that they can compare their electricity usage against a representative electricity usage load profile in their area. The ERAA is concerned that such an approach would only create consumer confusion in the market with limited benefit. A net system load profile (NSLP) is developed by accumulating individual consumer profiles in a given area, and is predominantly used to facilitate the effective operation of the market – such as wholesale settlements. It was never envisaged that NSLP be used as a marketing tool to help inform customers of their usage patterns.

To compare individual consumption usage patterns with NSLP would be wrought with danger and would require extensive caveats and explanation as to how individual usage would vary from NSLP. The costs of avoiding such confusion and misinformation will outweigh any perceived benefit espoused by making NSLP available for consumer education.

Fees payable by a customer

The ERAA supports the current provisions in the NER. We do not support the rule change proposal that consumers can request their electricity consumption data once over a “billing period” without charge. Whilst the majority of customers are billed quarterly, some customers are opting for monthly billing for a variety of reasons, including budgeting. Therefore, if the proposed rules were introduced, then customers who choose monthly billing would be able to request consumption data on a monthly basis without charge - which the ERAA argues was not the intention of the rule change proposal.

The ERAA would contend that the provisions currently described in the NER adequately meet consumers’ needs. This number balances the costs of provision of data with the customer’s right to have access to their data. Any requests above this level should attract a fee determined by the market.

Timeframes

We support the COAG Energy Council’s proposal for retailers (or other parties) to respond to a customer’s request for the provision of consumption data within 10 business days of a customer’s request. A timeframe of 10 business days to provide data balances the objectives of minimising administration costs as well as ensuring data quality is maintained. It is also appropriate for parties to provide up to two years of historical data to a requesting customer without charge. Customer history of two years facilitates trend analysis over a reasonable period of time to enable informed decision making.

The Consultation Paper also seeks to understand whether the proposed rule 56A of the NERR should apply to all consumers, considering that rule 28 of the NERR refers to provisioning of historical data to small customers. The ERAA would recommend that rule 56A should be restricted to small customers, as large retail customers generally negotiate data provision arrangements through their retailer, metering service provider or broker contracts.

Access by Authorised Agents or Service to their customers’ electricity consumption data

Authorised Agents Access to Data

The Consultation Paper discusses the proposal for agents or service providers acting on behalf of customers to request access to their customers’ electricity consumption data. The ERAA would like to emphasise the need for any agents or service providers to be authorised, due to sensitivity and privacy implications of customer consumption data.

In a situation where an authorised third party, acting on behalf of a customer, requests data, it is unclear what the procedure for obtaining explicit informed consent would be. Legally, it is unlikely that retailers would be able to provide data without first receiving written evidence of the customer's explicit informed consent.

The ERAA interprets that rule 7.7(a) of the NER does not prevent an authorised third party making a request to a retailer to receive a customer's data. These requests are usually accommodated where proof of explicit consent has been provided for by the customer. The ERAA does not support developing policy, or imposing costs on consumers, that caters for emerging operating models that cannot operate in the existing market framework (where the existing framework is otherwise deemed appropriate). This undermines competition by establishing an environment where providers of the same service may be subject to different regulatory barriers. Furthermore, this sets a dangerous precedent to change rules to meet the interest of a few parties to the detriment of incumbents.

The ERAA's position is consistent with views communicated to DRET's 2012 National Smart Meter Consumer Protections and Pricing Draft Policy Paper and the AEMC's Power of Choice Directions Paper. The relevant matter is whether retailers are certain that an authorised third party has bona fide customer consent and the evidence that may be required to support this. There is no process in place of a formal nature to manage such demonstration of consent and retailers may be required to expend resources to validate consent.

If a third party has failed to gain explicit informed consent from an account holder when seeking access to customer data, retailers should be expected to refuse data provision. As these parties are also not currently covered by the NECF consideration by the AEMC of consumer privacy provisions needs to be addressed as part of this Consultation Paper.

An alternative approach that should be considered as part of this consultation phase is whether to allow authorised third parties that have obtained appropriate consent, access to NEM12 data through the Market Settlement and Transfer Solutions (MSATS) database, assuming an appropriate consumer consent framework is established. These duly authorised parties would then be able to access consumption data using existing B2B arrangements in the market, rather than requiring industry to change existing file formats to accommodate their business model.

Informing Customers about the uses of electricity consumption data

Customer's Personal Information

The Consultation Paper refers to the ambiguity of whether meter data falls under the definition of personal information³. Retailers protect customers' consumption data and treat it as personal information, disclosing it only when written evidence of consent is provided. As such, retailers disclose in their privacy statements how customer data is managed and these statements are available on their websites.

To separately display a schematic or statement on the Australian Energy Market Operator (AEMO), AER or retailer website is duplicating existing information and is not supported by the ERAA.

³ AEMC Consultation Paper Customer Access to information about their energy consumption, p23.

Meter Data Common Terminology

The ERAA is concerned at the regulatory and administrative costs of imposing a common terminology on retailers. The individual retailers have diverse business operations and imposing the requirement to publish common terms not specific to a retailer's business may lead to customer confusion, contrary to the desired intent of the proposal. Retailers have an incentive to ensure that any terminology used is clear and understandable by their customers; therefore, a common set of terminology is not required.

Should you wish to discuss the details of this submission, please contact me on (02) 8241 1800 and I will be happy to facilitate such discussions with my member companies.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Cameron O'Reilly', written in a cursive style.

Cameron O'Reilly
CEO
Energy Retailers Association of Australia