



10 June 2014

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

AEMC Rule Change on Customer Access to Information about their Energy Consumption

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to provide input into the AEMC's rule change proposal to improve consumer access to information about their energy consumption.

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action offers free legal advice, pursues consumer litigation and provides financial counselling to vulnerable and disadvantaged consumers across Victoria. Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly.

Consumer Action recognises the great potential for advanced metering to enhance consumers' understanding of their own energy consumption, and acknowledges that it can be an important link for consumers to engage with the growing demand side market. We believe it is vital to the efficient functioning of this market that all consumers, regardless of socioeconomic background, have access to clear, simple and real-time data of their own energy consumption—without this, consumers will remain in the dark about how to benefit from more cost-reflective pricing and other demand-side initiatives.

With this in mind, we support the premise of the current rule change that 'it is difficult for consumers to access their data from market participants in an understandable format and in a timely manner'. Consumers' ability to engage with a future demand-side market will be dependent on access to simple, clear and timely data about their own energy consumption on which to base decisions about which products and services will benefit them.

The current rule change cannot, however, be taken in isolation of other related issues under consideration by the COAG Energy Council and the AEMC. Of particular relevance are the AEMC's rule change on expanding competition in metering services and the COAG Energy Council's ongoing consideration of regulation for third party energy service companies (**ESCOs**). It will be critical to the success of advanced metering technologies and the consumer demand market that adequate consumer protections for ESCOs are applied. We consider the current rule change as one plank in these broader consumer protections.

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Consumer Action supports clarifying that customers (or their authorised agents) are entitled to access to their electricity consumption data from both retailers and distribution companies. We also support the development of provision procedures to guide the process, however would argue that the AEMC is better placed to develop these procedures—as the rule maker for both the supply and demand sides of the energy market, the AEMC is better placed to consider the relationship between consumer engagement, adequate protection and efficient competition in the development of procedures.

These data provision procedures must be broad reaching and consider the full suite of issues that will be elements of consumer decision making in relation to their energy consumption data, rather than focus purely on the act of data provision alone. With this in mind, we believe that specifying a requirement for retailers and distribution businesses to publish information sheets about consumption data, and a requirement for the AER to develop metering data terminology guidelines, is too narrow an approach. These are both important elements of a market which empowers consumers to engage with their energy data, but alone will not successfully unlock the potential of the power of consumer choice.

Consumer Action recommends that the data provision procedures must also address:

- Timeliness of data provision;
- Data security and privacy; and
- Data accessibility.

Timely Data Provision

We believe that the AEMC's proposal that 10 days is an appropriate timeframe for provision of data is too slow. Where consumers have accumulation meters, this timeframe may be reasonable. However an increasing number of households now have more advanced metering, with advanced meters expected to become the predominant form of metering in the NEM with the implementation of the Power of Choice reforms. Provision procedures must be built to cater for these consumers also. Data for consumers with smart meters or interval meters should be required to be provided much more swiftly, with a view to ensuring that all consumers eventually have access to real-time information about their own energy consumption regardless of socio-economic background. Consumer Action is aware that some energy firms are able to provide data very quickly and, as such, we recommend that the AEMC explore how the rule change can facilitate the quickest access to data, rather than set an arbitrary and slow 10 day timeframe.

Data Security and Privacy

Consumer Action is currently undertaking research on the experience and concerns of consumers in an increasingly complex energy market. As part of this research, we surveyed over 300 households about their use of and attitudes towards key demand-side energy technologies, including smart meters. While consumers were overwhelmingly positive about the potential for advanced metering to allow them to better control their comfort and energy expenditure (94% of respondents were very interested in being able to remotely control their appliances for example), this was tempered by very high levels of concern about invasions of privacy and data security.

Concerns about privacy of personal habits and information rated as the highest concern that real consumers have with respect to advanced metering, and over 85% of people were concerned about the security and management of their consumption data. Addressing these concerns from the outset will be fundamental to gaining the trust of consumers to engage with advanced metering in a competitive market. This will include the proper regulation of ESCOs.

Consumer concerns about consumption data being used for purposes other than providing a bill are very real. Consumers do not want their data being used for marketing by their own retailer, other retailers or third party players, without their express permission.

In a market fuelled by innovation, where big data is a big commodity, it is vital that secondary uses of consumption data do not overshadow its primary purpose.

In our view, electricity consumption data must be afforded the same protections that personal information is afforded under privacy laws and regulation. In particular, consumption data should be subject to similar protections as those provided under the Australian Privacy Principles enshrined in the *Privacy Act 1988 (Cth)*.

We support the development of a limited and industry-specific privacy regime, to ensure that all market players are bound by appropriate minimum privacy standards. Such a regime should:

- develop common standard contract terms that cover all *permitted* uses of metering data;
- ensure explicit informed consent for customers giving authorised agents access to their data for explicit purposes;
- articulate the *agreed* primary and secondary purposes for the collection and use of metering data; and
- ensure that consumers have to **opt in** (rather than opt out from) to any use of metering data for any *agreed* secondary purpose.

We are aware that the COAG Energy Council (previously SCER) has commissioned advice about the necessary privacy arrangements.¹ It is unclear how this advice, and further consumer preferences, are being incorporated into the current rule change.

Data Accessibility

The simple provision of a right to access data, and information about how to access it, will not ensure that consumers engage with this right and exercise their market power. To be useful, data provided must be simple, affordable, and available in a range of formats and languages. Consumer participation must be considered for every stage of the provision process.

Data access processes must be simple and should:

- include standardised information on how to seek access to data and the benefits of doing so, made available in multiple formats, such as print, online and video and in languages other than English;
- include standardised terms and conditions of access and use, written in plain language;

¹ Seed Advisory, Final Advice on Privacy for the National Smart Metering Program, Report for the Energy Market Reform Working Group, August 2013, available at: <http://www.scer.gov.au/files/2013/08/Final-Advice-Privacy-for-National-Smart-Metering-Program.pdf>

- impose no cost on the request for data, as the data belongs to the consumer, and ensure any costs associated with second requests are made explicit before an access request is made. It is important to note that even small fees can act as a barrier to uptake;
- be streamlined to ensure simplicity of request forms without the need for large volumes of personal information or multiple steps. Processes should be delivered with the ultimate goal of allowing consumers direct access to their consumption data through web portals and in-home displays; and
- ensure data is provided in a machine readable format that enables consumer agencies and other authorised agents, to build programs that help consumers interpret and engage with their data.

These reforms together will ensure consumers are empowered to exercise their right to access their energy data and to engage with their data to make informed choices about which products and services benefit them. If the reforms fail to create consumer trust and confidence, they will not deliver the benefits that the AEMC and the COAG Energy Council seek.

The key to addressing consumer distrust and perceptions of being taken advantage of by industry is to keep it simple and streamlined with the security of a household's energy data and personal information being paramount.

➤ **Access to and use of consumption data should be made easy for the consumer.**

Metering data needs to be translated into a relatable and 'real world' language, where consumers can interpret it easily and make optimal choices about how to manage their own consumption.

➤ **Rules about sharing data between market players must be both transparent and consumer initiated.**

A continued power imbalance where retailers, distributors or third party energy companies have access to information about usage patterns or consumption that consumers themselves do not have, will not increase trust or consumer confidence in the market.

➤ **Safeguards should be implemented to ensure:**

- data ownership is clear;
- access to data is granted when required;
- data is only used for agreed primary purposes and can only be used for secondary purposes with explicit consent;
- data is not deleted without consent; and
- no unauthorised party can access data or use it for marketing purposes or profiling without permission.

If you would like to discuss these matters further, or have any points of clarification in regards to this submission, please do not hesitate to contact Claire Maries, Senior Policy Officer, Energy directly on 03 8554 6907 or at claire@consumeraction.org.au.

Yours sincerely,

CONSUMER ACTION LAW CENTRE



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