



22 September 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 draft determination on improving 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.

As in our previous submission to the consultation paper, we agree with the premise of the rule change that 'in practice it is difficult for customers to access their data from market participants in an understandable format and in a timely manner.' This is particularly true for vulnerable and disadvantaged consumers, who may have language and literacy barriers, or limited access to technology. Many of these consumers also have the most to gain from finding a new energy offer that better suits their needs and helps them to reduce their bills, as they often live in private rentals and have little control over the energy efficiency of their homes or appliances.

All 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. We therefore welcome this rule change to improve the accessibility of consumers' energy consumption data, as it is a fundamental plank in increasing consumer empowerment in the energy market and unlocking effective competition based on informed consumer decision making.

Data access

Consumer Action supports the provision of energy consumption data to consumers from either their retailer or their distribution business, and agrees with amending the existing rules to explicitly state that consumers may access their data from previous retailers. We believe that this amendment should be subject to the same requirements for timeliness and cost (none) of provision as will be required of their current retailer or distribution businesses through this rule change.

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We also support the provision of data in both raw and summary format, to suit different consumer preferences and needs.

Data provision

While there are many important aspects of data provision covered by this rule change, we believe that a key to success—where success is measured as consumer engagement and empowerment—lies in the intricacies of the data provision procedures from the point of the consumer seeking the data to the point that it is provided, and the format it is provided in. If consumer benefit and engagement, and the way that consumers actually make decisions, is not put at the forefront in the development of this process, there is a real risk that consumers will not make use of their improved access to data and effective competition will not be realised.

For this reason, we do not support the data provision procedures being developed on an open ended timeframe by AEMO. It is critical that the procedures are developed transparently in consultation with consumers and industry, prior to their being required for use. We therefore believe that this process should be guided by clear deadlines, including a consultation process. This will allow consumer advocates to provide their expertise in the development of data provision procedures to ensure that they are simple, timely and allow real ease of access to various consumer demographics.

We believe that the procedures, extending all the way through to the provision of data and the communication of data provision services on retailer and distribution business websites, would be greatly improved by using consistent simple terminology that consumers understand. With this in mind, we do not support the AEMC's dismissal of the proposed common terminology guidelines to be provided by the AER.

We also firmly believe that allowing 10 days for data provision is too long. Where consumers have accumulation meters, this timeframe may be reasonable. However an increasing number of households now have more advanced metering, with smart meters expected to become the predominant form of metering in the NEM. Data 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.

Finally, we encourage the AEMC to move the responsibility for developing data provision procedure from AEMO onto itself. The AEMC is much better placed to develop the procedures in house—as the rule maker for both the supply and demand sides of the energy market, the AEMC is better placed than AEMO to consider the relationship between consumer engagement, adequate protection and efficient competition. As the market operator with a wholly supply-side focus, we believe that AEMO does not have the experience with residential consumers to develop data provision procedures which will work for consumers.

Privacy and data use

The privacy and uses of consumers' data will also be a key to the success of these reforms. In our recent research report, [Smart Moves for a Smart Market](http://consumeraction.org.au/report-smart-moves-for-a-smart-market/),¹ Consumer Action 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 (75% of respondents were 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 rated as the highest concern with respect to advanced metering, with 85% of people 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 third-party energy service companies.

In light of this, we oppose the AEMC's recommendations that retailers and distribution businesses will not be required to publish information on their websites about use of meter data. Transparency in the terms and conditions of the use of data is critical to gaining consumer trust.

Furthermore, we strongly oppose the adoption of an opt-out regime for the use of meter data in direct marketing by retailers and distribution businesses. The use of consumers' data for any secondary purpose should only be at the specific request of the consumer or their authorised agent. If it is to be opt-out, this will presumably be communicated to consumers within the explicit and informed consent process, which is too complicated and lengthy for most consumers to digest. Use of data for marketing will therefore be unforeseen, and will not serve to build consumer trust in advanced metering or the companies which provide either their energy services or data.

As per our previous submission on this matter, Consumer Action believes that 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.

¹ <http://consumeraction.org.au/report-smart-moves-for-a-smart-market/>

Frequency of data provision

Consumer Action strongly supports the free provision of consumption data to consumers. However if this rule change is to meet its aim of improving customers' awareness of their electricity consumption and use patterns, then being able to access usage information for free four times a year is inadequate. With low energy literacy common across all demographics, it is normal that consumers are not able to recall their energy use drivers from three months ago, and even monthly is challenging. As such, the consumer's data needs to be available free of charge as often as it is required for consumers to realise the benefits of advanced metering. We believe that the number of times a customer should be able to request their energy consumption data without charge each year should be a minimum of twelve times. The AEMC should also look to see how more frequent access (preferably daily data feeds) could be enabled.

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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