9 November 2021

Consumer Data Right Division
Treasury
Langton Cres
Parkes ACT 2600

By e-mail data@treasury.gov.au

Consumer Data Right rules amendments (Version 4)

Alinta Energy welcomes the opportunity to respond to the consultation on version 4 of the Consumer Data Right rules and amendments.

Alinta Energy, as an active investor in energy markets across Australia with an owned and contracted generation portfolio of nearly 3,000MW and more than 1.1 million electricity and gas customers has a strong interest in the development of the CDR rules and their application to the energy sector.

Alinta Energy supports the policy intent and potential benefits of an economy-wide CDR and appreciates Treasury's close engagement with stakeholders to date.

However, we understand Treasury wishes to provide a final draft of the CDR rules (including energy sector specific provisions) to the Minister in October 2021. This leaves limited time to address remaining questions and uncertainties contained in the version 4 amendments (discussed below).

Alinta Energy acknowledges the significant effort Treasury has engaged in to reach this point of rules development but notes the fundamental change to the access approach from a gateway to peer-to-peer model as late as May 2021. While the rationale for a P2P model is understood and supported by Alinta Energy, the amendments to the rules required has truncated the timeline for rule consultation and development and we are concerned that important outstanding questions remain.

We address changes set out in the exposure draft rules and the consultation paper below.

1. Do you consider the proposed inclusion of all NEM retail customers, for all data sets, is appropriate? Are there alternative eligibility requirements that you consider would be more appropriate? If yes, please provide detailed reasoning as to why, including supporting information in relation to compliance costs if relevant.

Eligible consumers

Clause 2.1(1) of Schedule 4 of the draft rules suggests that an eligible consumer can be of any size. As Treasury is aware, energy retailers (as data holders) are concerned that extending the CDR to very large customers will add significant cost to its implementation and ongoing operation. Very large customers are unlikely to use the CDR and have existing, sophisticated arrangements to manage and analyse their consumption data and costs, have access to energy brokerage services and typically have bespoke pricing and contractual arrangements in place. The CDR use cases will have limited application or utility for large customers and there is no evidence to the contrary. We firmly believe that the definition of eligible consumer in the current draft of the rules will result in material net social costs associated with the CDR as it applies in the energy sector and will divert resources from small customers who are the cohort who will most benefit from access to the CDR.

Alinta Energy understands any consumption threshold may not adequately capture all small businesses but would point out the vast majority (more than 98%) of individual customers consume less than 160MWh per annum. To eliminate the risk of excluding small to medium business customers who may benefit from the CDR, Alinta Energy would suggest eligibility should be based on the type of contractual arrangement with a retailer. If the contract is subject to bundled pricing (where network, retail and energy costs are reflected in a menu of prices), the customer should have access to the CDR. Customers with unbundled pricing will always be large commercial and industrial users of energy with access to existing, sophisticated tools and services discussed above.

This approach would serve as a solution that meets the policy objective of including all small business customers in the CDR and minimises costs to industry and energy users of its implementation and operation. It aligns with the billing and customer relationship management ICT infrastructure retailers as data holders under the CDR have in place. It also avoids the arbitrary nature of a threshold based on annual consumption; however, Alinta Energy believes a 160MWh per annum cap would provide an almost identical level of access to eligible differentiation based on product pricing and bundling characteristics.

2. Do you consider the proposed mechanisms for correction of AEMO-held data provide an effective way to ensure data accuracy? Are there opportunities to improve the proposed mechanism, in a manner that is compatible with current National Electricity Market processes?

AEMO as secondary data holder, data correction and historic metering data

We understand the Treasury will require AEMO to provide metering data as secondary data holder through a shared responsibility data request. While we believe this process will unnecessarily duplicate processes in many cases (since retailers as data holders will have identical data), there remains concerns and questions over responsibility for data correction, timeliness of data transfer from secondary to primary data holders and sanctions for both should processes fail or not meet required standards.

There will be processes required to check that national metering identifiers match customer data requests from accredited data recipients, and standards (either through rules or technical requirements) to govern the timing of data transfer between primary and secondary data holders (AEMO). Given AEMO is not subject to sanctions in the same way that ADRs and data holders will be under the rules, we do not believe it is appropriate that data holders should face sanctions for errors or service delivery beyond their control.

Existing data correction processes in the NEM should be relied upon rather than creating new data correction procedures and imposing these on data holders. The focus of data transfer should be on the data sets requested. Requiring data holders to become administrators of data sets held by electricity distributors (in the case distributed energy resource registers) and AEMO

(for metering data) will significantly add to the cost of administering the CDR with questionable associated benefits.

We also have residual concerns about how historical metering data will be managed and authenticating multiple data holder relationships over time (presumably coordinated by AEMO as the secondary data holder). Any new processes will challenge AEMO and retailer's capacity to prepare for stage one implementation of the CDR in the energy sector as data holders.

3. Does the staged implementation approach provide sufficient time to implement the CDR while meeting the intent to facilitate consumer access to their data?

Staged application of the CDR Rules to the energy sector (Part 8, Schedule 4)

Alinta Energy supports the staged implementation approach to the introduction of the CDR in the energy sector. However, while larger retailers may have greater capacity and resources to implement the CDR, we are concerned that the commencement date of 1 October 2022 and remaining participants 12 months later presents a very challenging timeframe for industry.

The rules for the energy sector have undergone significant change and additional consultation following the decision to move from a gateway to a P2P architecture for data delivery. Retailers as data holders could not commence extensive development of systems and application programming interfaces ahead rules being finalised.

Given there remain a number of outstanding issues and matters to clarify in version 4 of the rules, we believe commencement dates of 1 October 2022 for the first stage of implementation, and 1 October 2022 for stage two, are extremely ambitious and will place significant pressure on all retailers as data holders to procure resources and budgets to fund what is a complex program of work. Additionally, the need to integrate with AEMO systems as a secondary data holder is a feature in the energy sector not present in the banking sector CDR. Experience has demonstrated that industry-wide system changes involving the market operator often require more time to implement and test than less.

To minimise the risk of errors and the potential for poor customer experiences and outcomes associated with the CDR in the energy sector, Alinta Energy suggests that a 12-month period for the first stage, and 24 months for the second stage, of implementation should commence when the energy sector rules are published at a minimum.

5. Are you able to identify any requirements of the draft rules that will make compliance with CDR more challenging?

Dispute resolution

The dispute resolution approach set out in the draft rules will create additional complexity and costs for energy retailers as data holders under the CDR.

Clause 5.2 in Schedule 4 of the draft rules will create two external dispute resolution bodies for consumers, depending on whether a complaint relates to an ADR (or sponsored party) or a retailer as a data holder (the Australian Financial Complaints Authority and jurisdictional energy ombudsmen schemes respectively).

We do not believe it is appropriate for such inconsistency to apply in the energy sector, which has a strong emphasis on consumer protection and regulatory oversight supporting this. We do not consider membership of jurisdictional ombudsmen schemes to be a significant barrier for participation for ADRs; the presumption that requiring ADRs to join jurisdictional ombudsmen

schemes is somehow burdensome is not consistent with the actual operation of these schemes and risks inconsistent customer experiences and confidence given the familiarity of consumers with the existing external dispute resolution pathways in the energy sector. Liquefied petroleum gas providers, with smaller customer bases than conventional energy retailers have been members of the Victorian Energy and Water Ombudsman scheme for over a decade, along with some specialized, smaller licensed energy retailers. Given the sophistication of many ADRs likely to participate in the CDR, it is difficult to understand why they could not be members of energy ombudsmen schemes for external dispute resolution.

The use of two separate external dispute resolution bodies will inevitably create additional costs to determine responsibility for a complaint (whether it is an ADR or a data holder) and retailers as data holders will contribute to these costs, even if the complaint does not relate to them, a cost that ultimately will manifest in energy prices.

We welcome further discussion with Treasury as it continues to implement the CDR, noting its intention to finalise the rules soon. Please contact David Calder on (03) 9675 5359 in the first instance should you wish to discuss matters raised in this response further.

Yours sincerely

Graeme Hamilton
General Manager, Government & Regulatory Affairs