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13 September 2021

Jane Hume
Minister for Superannuation, Financial Services, and the Digital Economy
Consumer Data Right Division
Treasury
Langton Cres
PARKES ACT 2600

By Email: data@treasury.gov.au

Dear Ms Hume,

Submission to Exposure Draft energy CDR Rules – Public version

EnergyAustralia welcomes the opportunity to make this submission on the Exposure Draft energy CDR Rules (Draft Version 4 Rules).

EnergyAustralia is one of Australia's largest energy companies with around 2.4 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. EnergyAustralia owns, contracts, and operates a diversified energy generation portfolio that includes coal, gas, battery storage, demand response, solar, and wind assets. Combined, these assets comprise 4,500MW of generation capacity.

Our key issues with the Draft Version 4 Rules are:

- **Implementation timeframe** – Treasury proposes a 1 October 2022 implementation date for Tranche 1 Energy Retailers. This would provide less than 12 months to implement the Consumer Data Right (CDR) from when the Data Standards are planned to be finalised to a "candidate" level (in November 2021). Based on our internal project timeframes, we estimate that we would need a timeframe of at least 18 months from when the Final Rules and Final Data Standards are published. This period is also warranted given Retailers are implementing version 2 and 3 of the Rules and additional complex functionality (e.g. non-individual, partnerships, nominated representatives, and secondary users), whereas the major banks only implemented version 1.

  Treasury should work with the DSB to understand when the Final Data Standards will likely be ready (including substantial updates to the data payloads to make them suitable for C&I customers) – we estimate that this could take until December 2021 or later. The 18 months

should also extend if AEMO experiences delays in rolling out its online service (to be used by Retailers to request AEMO held data).

- **Retailers included in Tranche 1:** Treasury should consider expanding the Retailers captured in Tranche 1 to cover the six largest Retailers based on market share. Including only the "big three" or Tier 1 Retailers in Tranche 1 would only provide access to the CDR for 64% of residential and small business customers across the eastern and southern states of Australia. Expanding to the top six energy Retailers would mean that the CDR would cover 77% of the market at the earliest opportunity, particularly in Victoria where the Tranche 1 Retailers only have 58% market share.

- **Commercial and Industrial customers** – We question whether C&I customers should ever be in scope of the CDR given it is unclear if material benefits will be realised and because Brokers and customers can already access the data they need today within regulated timeframes. On the other hand, the far greater costs and complexities of implementing the CDR for C&I customers are significant, when the proportion of C&I customers is only a fraction of the number of mass-market customers.

  Given the substantial work still required to ensure the data standards are able to reflect the complexity of C&I pricing/products, we believe it would be better to only include Residential and Small Businesses in the initial rollout of the CDR. We propose that the definition used is based not on a customer usage threshold but the complexity of the customer's energy pricing/product. This could be defined as customers who are on bundled pricing which would capture Small Business customers on simpler pricing. The decision of whether C&I is included in the CDR could then be deferred to a later time to ensure that it can be fully considered.

  Alternatively, if C&I customers were included in scope for the initial CDR implementation, it will be critical to ensure that the implementation timeframe (of at least 18 months) does not commence until the data standards are reviewed to ensure they are suitable for C&I pricing/products.

- **Correction processes for Shared Responsibility Data -** Treasury should not find it necessary to apply every Privacy Safeguard in all instances of CDR data sharing. We strongly encourage Treasury to reconsider whether Privacy Safeguard 13 should apply to Shared Responsibility Data (SR Data) from AEMO to impose obligations on Retailers. Privacy Safeguard 13 does not work well where the correction request is provided to a party that cannot correct the data.

- **Complaint resolution for Shared Responsibility Data -** The Draft Version 4 Rules provide that Retailers will receive complaints with respect to SR Data and that AEMO will have to provide relevant information to assist in resolving the complaint. We recommend that the Rules require AEMO to develop a process to outline how they will support Retailers in resolving complaints, and importantly that AEMO sets out timeframes by which they should respond to Retailer queries. A process will be key to ensuring that the complaint and dispute resolution process will function effectively for SR Data.

Our full submission is set out below. If you have any questions in relation to this submission, please contact Selena Liu (selena.liu@energyaustralia.com.au or 03 9060 0761).

Yours sincerely,

Melinda Green
Head of Customer Value Management

1. Implementation timeframe

Treasury proposes that the three largest electricity Retailers (including EnergyAustralia) will be included in Tranche 1 with a proposed commencement date of 1 October 2022.

We strongly urge Treasury to extend the commencement date for Tranche 1 Retailers to provide at least 18 months from when the final Rules *and final Data Standards* are published. Retailer implementation work and timeframes depend heavily on the decisions about Rules and Standards.

In relation to the Data Standards, the DSB has mentioned two reasons for the Standards being available in November 2021 to only a candidate level (roughly 95% complete):

- Adjustments required for the Final Rules
- The need to change Data Standards, in particular data payloads, to resolve ambiguities in interpretation which Retailers will identify in the process of implementation.

In our view, any Data Standard changes required for the Final Rules, including new or revised CX standards for Version 3 of the Rules (which Version 4 will incorporate) should be finalised before the timeframe for implementation starts.

Regarding the second dot point, while a small level of ambiguity and clarification particularly on the data payloads may be unavoidable for minor edge cases, the standards should generally be in a close to final state to avoid large amounts of lapsed time for Project teams. This may arise if the Project needs to clarify significant ambiguities with the DSB or amend delivery details and plans if the initial interpretation of the standards was unclear and is later found to be incorrect.

Further, as we outline in Section 3.3, the Data Standards are not suitable for a subset of customers (Commercial & Industrial customers (C&I Customers)) which are proposed to be in scope. The timeline for implementation should not commence until this issue has been resolved in a considered way.

In addition to a commencement date that allows enough time for the Data Standards to be finalised before delivery is assumed to begin, we strongly suggest a milestone date be set for the establishment of AEMO's online service (used by Retailers to request AEMO held data). If AEMO does not meet that date, the Commencement date should be extended by the amount of time of AEMO's delay. This is critical to ensure that Retailer's time to implement the CDR is not effectively reduced due to delays in AEMO's online service. We believe there is very limited value in commencing the CDR without Metering Data being available from AEMO. Therefore, we do not support commencing the CDR for Retailer held data sets and Government held data sets before AEMO's data sets are available.

[Confidential:]

In summary, the 18 months should start when the Data Standards are sufficiently final to reflect the Final Rules, ensure the data payloads are suitable for C&I customers, and to minimise ambiguities. Treasury should work with the DSB to understand when the Final Data Standards will likely be ready and then add 18 months to this date to determine the implementation date. The 18 months should also extend if AEMO experiences delays in rolling out its online service.

1.1 Reasons for asking for a longer implementation timeframe

Our reasons for asking for the longer implementation timeframe of 18 months are below.

Internal Project timelines

Our Project timelines indicate that a minimum 18-month implementation timeframe is required. **Confidential Attachment A** details our Project timelines and the underlying architecture of our CDR solution. We also highlight that an 18-month implementation timeframe is not unreasonable in light of several non-major banks having failed to comply with their 1 July 2021 implementation date.

[Confidential:

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Energy Sector is implementing earlier versions of the Rules in Version 4

A timeframe of 18 months is also warranted given that Retailers are implementing version 2 and version 3 of the CDR Rules, while the major banks implemented Version 1.

The first tranche of banks implemented version 1 of the CDR Rules for Phases 1-3 of products completing on 1 February 2021. The banking sector had the benefit of being able to focus on the "minimum viable product" version of the CDR in their first implementation, without the subsequent changes:

- Version 2 (Accredited Person to Accredited Person transfer etc.)
- Version 3 of the Rules (sponsor/affiliates etc.)
- Functionality for non-individual, partnerships, nominated representatives, and secondary users (due 1 November 2021)

While the first two changes mostly impact ADRs, Data Holders need to understand the additional, significant complexity they introduce. Version 3 in particular changes parties that can make Consumer Data Requests to Data Holders e.g. outsourced service providers. Under Version 3, Retailers will also need to understand the trusted advisors and insight disclosures to ensure their contact centres understand what parties may have received CDR data, so that contact centre agents are able to field customer queries and issues. Customers are highly likely to contact their Energy Retailer should an issue with their energy data arise. Part of the reason that we request that the implementation timeframe be extended is to reflect this additional complexity of Version 2 and 3.

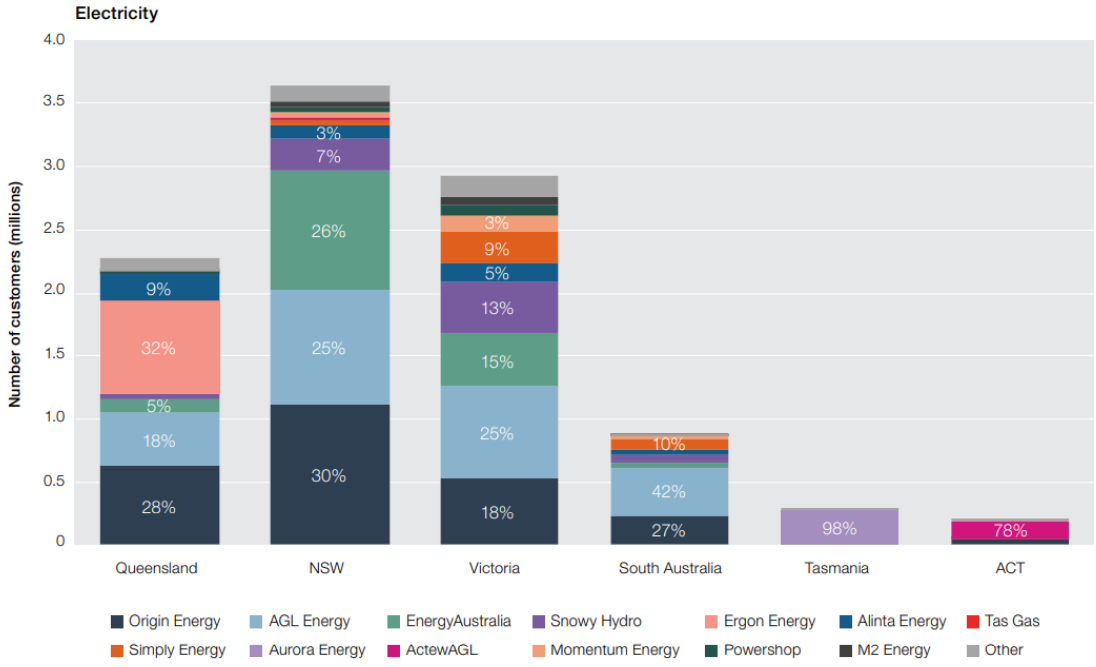
2. Largest second tier Retailers should be included in Tranche 1

We also encourage Treasury to consider expanding the Retailers captured in Tranche 1 to cover the six largest Retailers based on market share. The largest three second tier Retailers have the capability and digital maturity to be able to implement the CDR earlier. In addition, the strongest reason for this expansion is that it will have significant and beneficial impacts for competition and consumers. It is important to increase consumer access to the CDR.

Based on the latest Australian Energy Regulator (AER) market reporting[1], **the "big three" or Tier 1 Retailers would only provide access to the CDR for 64% of residential and small business customers** across the eastern and southern states of Australia (the National Electricity Market (NEM)).

It is also helpful to consider the issue on a per state basis given that high population figures in NSW can skew overall percentages across the states. On a per state basis the "big three" figures would be:

- 58% in Victoria,
- 70% in South Australia, and
- 51% in Queensland (Note this is a whole of state figure, the contestable market of South East Queensland is not separately reported).



Note: Includes residential and small business customers. All data at December 2020, except Victoria (electricity and gas, June 2020) and Tasmania (gas, June 2020).

Source: AER, *Retail markets quarterly, Q2 2020–21*, April 2021; ESC, *Victorian energy market report 2019–20*, December 2020; Office of the Tasmanian Economic Regulator, *Energy in Tasmania report 2019–20*, December 2020.

Importantly, including the following Tier 2 Retailers would materially increase consumer access to the CDR by 9-13% in Victoria, South Australia and South-east Queensland:

- Red Energy and Lumo Energy, would increase CDR accessibility in Victoria by 13%;
- Alinta Energy, the third largest Retailer in South-East Queensland after Origin and AGL would extend CDR access to 9% of electricity customers; and
- Simply Energy, a further 9-10% of electricity customers in Victoria and South Australia.

[1] State of the energy market 2021 (aer.gov.au) p 247-248

Our final reason for increasing the Retailers in Tranche 1 is to level the playing field among Retailers. The primary use case for the energy sector is a comparison use case. This is unlike the banking sector where the initial use cases have focused on budgeting apps and support for application processes with the banks.

This comparison use case means that in the energy sector, Tranche 1 Retailers will be competitively disadvantaged by implementing the CDR earlier, where ADRs will be able to access their Customer Data which will support switching to other Retailers. We expect that this impact could be material with increasing take up of accreditation by well-known comparator businesses in the energy sector e.g. Canstar is already partnering with Frollo for a Personal Finance Management app, and it is conceivable that they will expand to a comparison use case; Finder also registered as an ADR in May 2021.

The second tier Retailers compete strongly with the Tier 1 Retailers and are successful in gaining market share. It would therefore be a significant advantage for Tranche 2 Retailers to be excluded from the CDR for an additional year.

This unlevel playing field effect for future sectors where the primary use case is a comparison one, will be more pronounced as the ADR community matures and consumer take up increases. Treasury should re-consider how it has staggered the CDR implementation and ensure it does not further entrench an approach which is inherently unfair and disadvantages larger sector participants.

Lastly, Treasury has referred to the Tier 1 Retailers having the highest proportion of Standing Offer Tariff (SOT) customers and therefore the most to gain from switching and the CDR. There are two broad types of SOT customers:

- The first type are those who are disengaged from participating in energy sales and marketing activity or searching for other offers. They tend to stay on a SOT for an extended time.
- The second type are those who are newly placed on a SOT as a default option but are likely to re-engage with the market when notified of this change (e.g. a deemed arrangement, where their contract ends and there is no contract in place).

The second type of customer is more likely to engage in the market (regardless of the CDR), whereas it is highly challenging to engage the first type of customer. As the CDR is an opt in model, the customer would either need to approach the ADR or vice versa before the customer consents. The ADR will not know who a SOT customer is until they start to engage the customer. This means that while the CDR will likely assist some SOT customers to find a better offer, the nature of these customers suggests that it will not be any more successful than facilitating market engagement in other ways. Therefore, we do not see a reason to prioritise Tier 1 Retailers due to their higher proportions of the first type of SOT customer. The priority should be to open to the largest number of customers as soon as possible.

3. Commercial & Industrial customers should be descoped from the CDR or the decision deferred to a later date

Treasury has referred to a policy intent to ensure that the CDR is universally accessible for all consumers. The Open Banking review acknowledged that certain large business customers that make use of specifically tailored banking products may not need Open Banking[2]:

> "In other words, [large businesses] are generally, but not always, well-placed to obtain access to data, and know which banking products or service would best meet their requirements. They may not therefore need Open Banking.

[2] Open Banking review, page 42.

> In consultations, some banks argued that the financial affairs of large businesses may be too complex to be easily amenable to data sharing under Open Banking.
>
> On the other hand, there are always difficulties created when policy carves in, or carves out, certain groups… [text omitted]
>
> **In practice, by choosing to specify the relevant accounts and other products in Recommendation 3.2, *it is unlikely that any of the complex or special products banks are concerned about would be the subject of Open Banking***. Thus, actually carving a set of customers out of scope could prove to be an additional cost, not a cost-saving.
>
> **For these reasons, the Review has concluded that it would be ideal for all customers to have access to Open Banking**."[3]

That is, the Review concluded that it would be ideal for all customers to have access to Open Banking, with the important qualification that the definition of accounts/products for the CDR for banking *would itself exclude complex or special products*.

Turning to the CDR Rules for banking, we understand that the product data in scope for business customers is still relatively restricted as it includes products for business customers (such as business finance, lines of credit, overdrafts), but only where the product is "publicly offered". **There is then an exclusion for "publicly offered" which applies to products that are highly negotiated. This effectively descopes highly negotiated products for large business customers. We consider C&I products in the energy sector to be analogous to these highly negotiated products in banking which are excluded from the CDR.**

We strongly urge Treasury to remain open to reconsidering whether C&I customers should be included in the CDR at all, and propose Treasury descope it from the first iteration of the CDR to allow for sufficient consultation on the issue.

We canvass our reasons for why C&I should be excluded below. In summary, the associated benefits are very unclear, the additional costs are material, and there are significant complexities (including a substantial review of the data payloads) that will need to be overcome to include them. We also discuss the issue of how to define Small Business customers to inform a workable and pragmatic definition that could effectively define C&I customers to descope them.

3.1 Benefits for C&I customers are very unclear

In our experience with servicing the C&I Customer segment, we have considerable doubt as to whether Brokers servicing the C&I customer segment would use the CDR, when they have access to this data today at no cost. In contrast, it requires an upfront investment of around $250,000 (according to ADR, Illion)[4] for a Broker to become an unrestricted ADR.

We recognise that Version 3 of the CDR Rules will seek to lower the cost of becoming an ADR; but we highlight that in addition to the costs of accreditation, Brokers would also have to invest in changes to their own IT systems to be able to accurately accept and process CDR data. Treasury should not expand the CDR to C&I customers until there is sufficient evidence of possible uptake by ADRs. This evidence appears to be lacking.

In addition to unclear take up by ADRs, the specific data sets have low value in the C&I context:

[3] Open Banking review, page 42.
[4] illion (26 October 2020).pdf (accc.gov.au) , p 2

(i) **Tailored Tariff Data:** The primary use case for Tailored Tariff Data would presumably relate to Brokers using pricing information about the customer's current plan to make pricing comparisons and a recommendation.

It is important to understand that if a C&I customer is looking to enter a new contract, a Broker will obtain a *new quote* from the current Retailer (and other Retailers) based on forward-looking wholesale market prices and the customer's most recent annual usage patterns[5], based on Metering Data.

These new prices will bear little relationship to the customer's *current pricing* under the customer's Tailored Tariff Data. In this way, Tailored Tariff Data or the customer's current pricing is essentially not relevant to pricing comparisons for C&I customers.

[**Confidential**:]

In summary, the way C&I contracts are set up and the commercial commitments that C&I customers and retailers take on:

- It is uncommon for C&I customers to considering switching retailers until they are close to the end of their contract (depending on market conditions, these usually range from one to five years, but may be set up for any period).
- When a C&I customer switches retailers their existing Tailored Tariff Data, Billing Data and Generic Tariff Data has little, if any, relevance. It is only Metering Data that is useful.
- Tailored Tariff Data and Billing Data may however be useful in other use CDR cases such as providing bill tracking or bill forecasting, etc.]

[5] 'Usage pattern' refers to the shape of the customer's usage profile through the day, week, and season throughout the year.

(ii) **Billing Data:** The presentation of Billing Data has utility for C&I customers, but Billing Data is already presented by Retailers via customised bills on an online portal.

[Confidential:
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Further, the vast variety of different C&I products will mean it will be very challenging for the CDR data payloads to present both Billing Data and Tailored Tariff Data in a complete and accurate way. We discuss these complexities in more detail below under the Complexity of C&I data (Section 3.3).

(iii) **Metering Data:** C&I customers and Brokers typically request meter interval data for 12 months to obtain energy supply quotes. Interval Metering Data is widely accessible via established channels, and Brokers obtain the data they need using a Letter of Authority, which ensures the process is consent driven like the CDR. **As this process works simply and easily today with few overheads, we question if the CDR will present many benefits to the C&I segment who usually only switch Retailers at the end of their contracts.**

[Confidential:]

We are unaware of any issues with the timing of responses to Metering Data requests. These timeframes are regulated. If there is an issue with delays in providing Metering Data, it must be rectified in the regulations.

Specifically, Retailers (and Metering Data Providers) are obliged to provide Metering Data in compliance with timeframes under the Australian Energy Market Operator *Metering Data Provision Procedures*.[6] Paragraph 2.2(a) of the Procedures states:

> "Where a retail customer requests their metering data, Retailers and DNSPs [Distribution Network Service Providers] must use reasonable endeavours to deliver the metering data to the retail customer within 10 business days. This delivery timeframe commences from the date a metering data request, that includes all verification information required by the Retailer or DNSP, is received by the Retailer or DNSP."

(iv) **NMI Standing Data:** Bulk NMI Standing Data requests are routinely performed for C&I Customers by Retailers and provided to Brokers. NMI information (not in bulk form) can also be accessed via online portals.

[Confidential:]

[6] CAD Metering Data Provision Procedures (aemo.com.au)

3.2 Costs of C&I Customer inclusion

In addition to the unclear benefits discussed above, we estimate that the incremental cost of including C&I customers will be

[**Confidential**:]

3.3 Complexity of C&I data

Further to the issues around benefits and costs, there is significant complexity involved in working through C&I data to ensure it is accurately reflected in the CDR payloads. These complexities add to the cost of incorporating C&I data across Retailers, the DSB, and ADRs.

While we acknowledge the substantial work the DSB has completed on the data payloads, more work would be necessary to ensure C&I pricing is accurately reflected and meets the needs of ADRs. We provide parts of a sample C&I bill with the most basic C&I unbundled pricing in **Attachment B** to illustrate that the current payloads are not fit for purpose for C&I products.

There are four types of data that CDR relies on that are much more complex for C&I customers (and in some cases, for some mass-market customers as well).

(i) Tailored Tariff and Billing Data

Tailored Tariff and Billing Data are very different for C&I customers compared to residential and small business (mass-market) customers. One of the key differences compared with mass market pricing is that C&I electricity pricing is often 'unbundled', which means that the retail component is separated from other 'cost' components which are all separately itemised in the contract and on customers' bills.

The retail components of a C&I customer's energy contract or bill often cover things like the wholesale costs of supplying energy and a Retailer's fixed costs, including a charge for metering. In many cases these retail charges are simple in nature and they fit the existing data payload definition. However, it is all the other unbundled components which are not currently included in the data payloads which are the issue. This includes charges that are:

- different between Retailers,
- may change without notice or on a different cycle to retail charges,
- new – i.e. that were added after the contract (Tailored Tariff plan) starts, or
- are more complex in how they are calculated – e.g. charges that are multiplied by a loss factor (to reflect electricity lost over transmission across the networks) as well as usage. For example, the energy rate is multiplied by a loss factor as well as usage.

(ii) Metering Data

The Metering Data payloads defined to date for mass-market will not support the accurate calculation of Demand charges. Demand charges are substantially different from and are measured in different units than usage charges. It is very common for C&I customers to have network cost components that contain Demand charges.

For mass-market customers, network tariffs also increasingly include a Demand component as well as usage and supply charges. As mass-market bills are often bundled, the Demand charges are increasingly included in retail charges. This will need to be resolved before the standards are published in final form and before the implementation timeframe commences.

Another complexity of C&I Metering Data is that many large electricity users have CT (current transformer) metering, that allows the electricity current to be stepped down, so it is not too high to pass through the meter. The customer's actual usage is determined by applying a multiplier to the indirectly metered value, which also is not reflected in the current payloads.

(iii) NMI Standing Data

Some C&I customers, especially the larger users, have more complex NMI Standing Data which appears not to fit into the current Data Standard payload definitions. This includes situations where there are several NMIs at the one site where some of these may be master meters or check meters. This type of data is necessary for understanding the Metering Data – i.e. knowing which Metering Data to use and how to use it accurately.

Different C&I product and pricing configurations

Even within the C&I customer segment, there are different product and pricing configurations. It will therefore be highly difficult for the DSB's data payloads to reflect the different variations accurately and entirely, with a real risk that an incomplete view of the products will be presented to ADRs which in turn may misrepresent the product.

[**Confidential**:]

The above examples illustrate that Tailored Tariff, Billing, NMI Standing and Metering Data will be highly differentiated even within the C&I segment, which will be difficult to reflect in the data payloads.

3.4 Defining Small Business and C&I Customers

Under energy sector regulation, the definition of Large Customers in the energy sector is set by a consumption threshold which defines Small Customers. Any customers above the Small Customer threshold are Large Customers, and do not receive the consumer protections that apply to Small Customers. Each state and territory in the National Electricity Market has defined its Small Customer threshold. This ranges from 40 MWh per annum (p.a.) in Victoria to 160 MWh p.a. in South Australia, with all other NEM states adopting 100 MWh p.a.

We recognise that the differences in consumption thresholds across the jurisdictions may make it difficult to select the appropriate consumption threshold for the CDR.

We also emphasise that the definition of C&I customers in the CDR context needs to be a purposive definition which serves to address the two main issues of benefit and cost. The definition should be designed to:

- differentiate between simple pricing data for mass-market customers (including Small Business customers) versus complex pricing data for C&I customers, where the CDR will have far greater benefit for mass-market customers; and
- differentiate between IT systems servicing mass-market customers vs C&I customers for Retailers that have different systems. This relates to addressing the cost issue.

An alternative basis to a consumption threshold could be a definition based on whether the customer is on bundled or unbundled electricity pricing; where customers on bundled pricing can be considered as "small business customers" serviced using mass-market systems; and those on unbundled pricing can be considered as C&I customers.

The definition does not necessarily have to focus on a bundled/unbundled distinction. It could be based on another distinction which relates to pricing or product complexity.

Adopting an alternative definition based on the complexity of pricing/product, instead of a consumption-based definition would also address the risk that Treasury has identified around a Small Business customer having particularly high consumption, above the consumption threshold, and therefore not having access to the CDR.

If a Small Business customer happened to consume more than the 160MWh p.a. threshold, but was on bundled pricing, they would still have access to the CDR under the bundled/unbundled definition. If a Small Business customer is not on bundled pricing, then arguably they are in effect on a C&I type plan.

3.5 Further information on types of business customers consuming above Small Customer thresholds

[**Confidential**:]

3.6 C&I customers with multiple NMIs *under the Small Customer threshold*

There is the additional complexity of multisite C&I customers. Some C&I customers with multiple premises *under the Small Customer threshold*, may choose to aggregate their sites so that they exceed the Small Customer threshold and are treated as a Large Customer account. This option applies in NEM states or territories other than Victoria.

We consider a definition based on bundled and unbundled pricing will still be workable for these multi-site customers, such that if they have bundled pricing across their sites, they should be treated as a Small Business customer. [**Confidential:**
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Separately, there is an additional issue with multi-site customers around identifying the NMIs associated with a customer account at any one point in time. This is a further complexity that the DSB will need to solve for. When C&I customers have thousands of sites, there can be a NMI change every one to two days due to stores moving premises (end of lease), novation of sites, and store closures. **[Confidential:**

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This is a complexity that does not apply to the banking sector as their CDR data does not relate to a physical site. This further complexity is another reason to not include C&I customers in the initial CDR rollout.

3.7 C&I customers – conclusion

In conclusion, we question whether C&I customers should ever be in scope of the CDR given:

- It is unclear if material benefits exist,
- There is unlikely to be much uptake,
- There is substantial work to add to the current data payloads to make them suitable for C&I customer data, and
- Brokers and customers can already securely and easily access the Metering Data they need without the overheads of setting up to obtain this data via the CDR.

On the other hand, the costs and complexities of implementing the CDR for C&I customers are real and significant. The complexities in designing data payloads for C&I customers will add further costs to the CDR regime. There is also the further issue of multi-site C&I customers and how to deal with changing NMIs to ensure the correct NMIs are linked to a customer.

Ultimately, we believe it would be better to only include Residential and Small Businesses in the initial rollout of the CDR. This could be defined as customers who are on bundled pricing (or some other definition to capture customers on simpler pricing). This would bring energy into line with the treatment of complex products for the CDR in banking, and it would also allow all participants to focus on the successful delivery of CDR in energy for mass-market customers. The issue of whether C&I is included in the CDR should be deferred to a later time.

Alternatively, if C&I customers were included in scope for the initial CDR implementation, it will be critical to ensure that the implementation timeframe (of at least 18 months) does not commence until the data standards are substantially reviewed to ensure they are suitable for C&I data.

4. On-market embedded network customers should be out of scope for CDR

EnergyAustralia welcomes Treasury's decision to exclude off-market embedded network customers for the first implementation of the CDR.

We encourage Treasury to re-consider whether *on-market* embedded network customers should be included and have provided further, new information on this issue below. For background on what off-market and on-market embedded network means, see our earlier submission.[7]

The product construct and billing arrangements for "on-market" customers can be different, either:

- An "energy only" product where they will receive two bills, one from their "on market" Energy Retailer for the electricity component and another for network charges from the private embedded network operator (ENO) for their site (This is another type of unbundled billing as described above for C&I customers, but many on-market embedded network customers are small energy users); or,
- Their Retailer may provide a "bundled energy plan" with a single bill that covers both the electricity component and network charges, and the Retailer recovers the network charges from the ENO.

The arrangement which an ENO adopts is different from site to site.

[7] EnergyAustralia_3.pdf (accc.gov.au), p 16

Due to this significant lack of standardisation in product structure and billing, there would currently be low benefit in expanding the CDR to on-market customers.

[Confidential:]

Separate reform by the Australian Energy Market Commission (AEMC) and Department of Environment, Land, Water and Planning (DELWP) will address barriers and facilitate better access to embedded network customers. Until that time, and in view of the current market, there is negligible benefit to expand the CDR given there are unlikely to be any Retailers an on-market embedded network customer could switch to.

We also understand that the Australian Energy Regulator's comparator Energy Made Easy does not publish on-market embedded network tariffs. E.g. "Retail-only (energy only) plans to an embedded network customer" are Restricted Plans[8] and so data about these plans will not be shared under the CDR (which we support). There is little point in providing other CDR data for that customer, such as Tailored Tariff Data, if there is no Generic Tariff Data to compare that data to, for energy plan comparisons.

There are also additional costs/complexity of building to non-standardised on-market embedded network arrangements for both Retailers and ADRs. The DSB's CDR payloads will need to be reviewed to make clear when customers are on-market embedded network customers; and to reflect "energy only" and "bundled energy plan" product constructs. ADRs would also need to design their services to take into account these two product constructs to ensure only like for like is compared. In our view, these greater costs and complexity outweigh the low benefit.

EnergyAustralia supports the consideration of expanding the CDR to both on-market and off- market embedded network customers in the future, when the AEMC and DELWP reforms are implemented.

[8] Microsoft Word - D18-52483 Retail Pricing Information Guidelines - April 2018 (Final) (aer.gov.au) 15

5. Eligibility criteria

Generally, we do not have any issues with the eligibility criteria. Our comments relate more to data availability to verify eligibility. We agree with cross sector eligibility being for customers that are 18 years or older. [**Confidential:**

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6. Data sets

6.1 Only most recent data is relevant for certain data sets

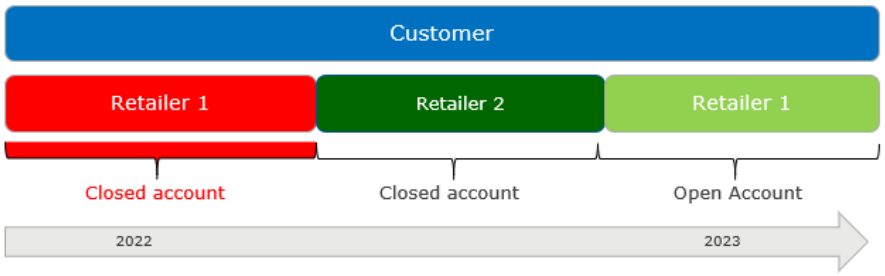
Customer, Account, Tailored Tariff (and potentially DER Register) data only have utility where it is the most recent data for that customer. Historical data for these data sets have very limited utility, and at worst, are potential sources of misinformation which could risk confusing the customer's current details and energy arrangements. It requires extra effort and cost for Data Holders to provide historical data so the CDR Rules should only require non-current data where there is a strong likelihood of benefits being realised.

This issue is partly resolved in the Draft Version 4 Rules for closed accounts which are limited to the most recent Account and Tailored Tariff Data, but it should be extended to all Account, Tailored Tariff, Customer and potentially DER Register data for open and closed accounts i.e. only the most recent data should be disclosed under the CDR.

6.2 Closed Accounts

We understand and support that the intent of the Draft Version 4 Rules is to limit sharing of CDR data to closed accounts that a customer has with their current Retailer.

However, we seek clarity on a relatively common "edge" case scenario, where it is possible that a customer is with Retailer 1, and switches to Retailer 2, but then switches back to Retailer 1, as illustrated below.



A question arises as to whether Retailer 1 is expected to share closed Account Data relating to the first time the customer was with Retailer 1 before switching to Retailer 2 (shown in red above). Our view is that the first time the customer was with Retailer 1 is conceptually the same to that customer being with a different previous Retailer. The CDR should not require data relating to that closed account to be provided.

6.3 Generic Product Data – Restricted Plans

We read Rule 3.1(d) of Schedule 4 of the Draft Version 4 Rules as excluding Restricted Plan information from Required Product Data, which is an approach that we would support. Restricted Plans are a plan specifically targeted to an exclusive individual or group and tailored to the specific circumstances of that customer.[9] Restricted Plans, contrary to Generally Available Plans, are available to any customer in the relevant distribution zone with the same meter type[10] - i.e. they are plans not set up for a specific individual or group. Restricted Plans are not published on Energy Made Easy or Vic Energy Compare, whereas Generally Available Plan details are publicly available on those websites.

Rule 3.1(d) states:

> "in relation to the energy sector, means CDR data for which there are no CDR consumers that: …
> (d) is held by the AER or the Victorian agency for the purpose of operating websites *that provide such information to the public*".

We ask that this be confirmed in the explanatory materials for the Final Rules. There is limited value in including Restricted Plans in Required Product Data for disclosure to ADRs.

Restricted Plans are often not marketed publicly for various reasons. This is typically because the plans may be tailored to suit specific customer characteristics, they contain certain eligibility criteria, or they relate to a pilot i.e. they are not generally available to any prospective customer. It would not make sense to include Restricted Plans in Required Product data as they would be irrelevant for most customers or require heavy qualifications on eligibility which would confuse customers and ADRs and result in negative customer experience.

7. Risk of family violence for Secondary Users not sufficiently addressed

The Secondary User arrangements should be reviewed for family violence and privacy risks. Generally, the Draft Version 4 Rules cover this adequately for disclosures of CDR data and authorisation by *account holders* for accounts with multiple account holders. They provide Data Holders broad discretion to not disclose data or present information through authorisation where there is a risk of family violence.

For example, Rule 4.7(1) provides "a Data Holder may refuse to ask for an authorisation in relation to the relevant CDR data, or refuse to disclose required consumer data in response to the request: if the Data Holder considers this to be necessary to prevent physical or financial harm or abuse".

In line with accounts with multiple Account Holders, similar provisions should be introduced to allow Data Holders discretion not to meet secondary user obligations to:

- allow account holders to grant secondary user instructions,
- provide information on secondary user disclosures via the online service provided to the account holder, or
- disclose CDR data authorised by secondary users,

where necessary to prevent physical or financial harm or abuse.

[9] Energy Retail Code (Vic), clause 3 Definitions; Microsoft Word - D18-52483 Retail Pricing Information Guidelines - April 2018 (Final) (aer.gov.au), paragraph 77

[10] Energy Retail Code (Vic), clause 3 Definitions; Microsoft Word - D18-52483 Retail Pricing Information Guidelines - April 2018 (Final) (aer.gov.au), paragraph 76

It is difficult to outline every scenario which poses risk, but for example, Data Holders should be able to:

- Not disclose CDR data as requested by Secondary Users where it may place the Account holder at family violence risk (e.g. disclosure of Metering Data which could show Account Holder patterns of when they are at home). This is to protect against a situation where the Account Holder does not feel it can withdraw the secondary account holder instruction, and where the Retailer is aware of these sensitivities.
- Not provide an account holder the service to grant a secondary user instruction where it may place the secondary user at family violence risk e.g. intimidation, harassment.

8. Shared Responsibility Data

8.1 Correction process

Treasury should not find it necessary to apply every Privacy Safeguard in all instances of CDR data sharing. We strongly encourage Treasury to reconsider whether Privacy Safeguard 13 should apply to Shared Responsibility (SR) Data from AEMO to impose obligations on Retailers. Privacy Safeguard 13 operates well where the Data Holder that has control over the CDR data directly receives the request to correct it and can correct it. i.e. It works well where a Retailer receives a correction request for Retailer held data like Billing data. It does not operate effectively when the Data Holder (Retailer) does not have control over that data but could receive requests to correct it. Treasury needs to be mindful that whatever it adopts for the energy sector on this issue will set a precedent for other sectors with SR data.

We strongly question the necessity for the CDR Rules to provide for an initiation of the correction process for the SR data sets. For NMI Standing Data and Metering Data, these correction processes exist under energy regulation and processes today.

For DER Register data, Retailers are unfamiliar with this data and do not handle and cannot view this data. Draft Version 4 of the Rules would require Retailers to field inquiries about this data when they are not required to deal with this data under market processes today, and where Retailers will not have the means to check the data or otherwise verify a customer's request to correct it.

We understand that AEMO usually receives DER register data from Distributors, so if correction requests are received in high volumes or complexity, this is likely to be a frustrating process for all concerned. For example, Retailers would not be able to verify if the correction request for DER Register data is not necessary or appropriate (as required under Clause 6.1(2)(c)(iii) Schedule 4). We urge Treasury to consider how this process could be simplified and place obligations on the right parties to enable updates to be made quickly and easily.

However, if Treasury were to impose obligations on Primary Data Holders (Retailers) to initiate the correction process:

- The correction process for DER (to refer to Distributors) is problematic given there is no external automated solution. We suggest this is removed until a market process and B2B transaction can be built to support communications between Retailers and Distributors.
- It is difficult to comment on whether 10 business days to inform the customer that their correction request has been completed or not, is appropriate, without a clear understanding of volumes. [**Confidential**:

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8.2 Complaints

The Draft Version 4 Rules provide that Retailers will receive complaints with respect to SR Data and that AEMO will have to provide relevant information for the complaint to Retailers. The reason appears to be that AEMO is not a consumer facing organisation.

We have concerns that Retailers will experience significant challenges in investigating complaints where the root cause lies with AEMO and that Retailers will wear greater costs due to the resources and time taken to liaise with AEMO.
We recommend that the Rules require AEMO to develop a process to outline how they will support Retailers in resolving complaints, and importantly that AEMO sets out timeframes by which they should respond to Retailer queries. The Rules should require that the process be subject to industry consultation and the ACCC should have oversight over this process. A process will be key to ensuring that the complaint and dispute resolution process will function effectively for SR Data.

A process will also need to exist between energy ombudsmen and AEMO to ensure that ombudsmen can contact AEMO if required to resolve a dispute. AEMO, while not a member of the scheme, should still be required to respond and respond in a timely manner.

8.3 Retailer obligation to delete Shared Responsibility Data

We understand the general intent behind the obligation on Retailers to delete SR Data to minimise risks of data leaks. This is a position we generally agree with. Our comments relate to ensuring that this is practicable and provides for efficient outcomes.

Treasury should define or refer to be defined by the DSB, the period of time within which data must be deleted after it is sent from a Retailer to an ADR. This period should be defined with the recognition that it would be valid to retain SR data for a short period in case the transmission is not delivered to the ADR, so that the Retailer can re-send the data and does not have to re-request that data for a second time from AEMO. We also note that the Draft Version 4 Rules already provide for protections against misuse of SR data by Retailers for purposes other than transmitting it to ADRs.

We also note that sufficient meta data for transferred SR data will need to be retained by Retailers or AEMO, for the Retailer and AEMO to be able to ascertain whether a CDR issue was caused by them to resolve complaints.

8.4 AEMO notifying ACCC of data outage

Draft Rule 5.25 provides that AEMO does not have to appear on the Registrar's data base. We agree with this but note that AEMO should be obliged to notify both the Registrar and Data Holders of outages.

Attachment A – Confidential

Attachment B - C&I data and data payloads

Note the following bill is a mockup and does not relate to any customer.

For billing payloads, the following sample C&I bill shows elements of the unbundled price in red which the current data payloads **do not** reflect.

	Contracted Rate x (DLF x MLF)		Metered Rate	Quantity	Cost
Energy Charges					
Peak Energy	15.3381 c/kWh	1.0453 1.0025	16.0730 c/kWh	1,567.22 kWh	$ 251.90
Shoulder Energy	10.4862 c/kWh	1.0453 1.0025	10.9886 c/kWh	6,124.72 kWh	$ 673.02
Off Peak Energy	4.0034 c/kWh	1.0453 1.0025	4.1952 c/kWh	5,936.90 kWh	$ 249.07
Total Consumption Charges				**13,628.84 kWh**	**$1,173.99**
Market Charges					
Paricipant Charges		1.0453	0.0226 c/kWh	13,628.84 kWh	$ 3.22
Ancillary Services		1.0453	0.1982 c/kWh	13,628.84 kWh	$ 28.24
					$ 31.46
Metering and Other Charges					
Meter Charge			2,620.00 $/pa	31 days	$ 222.52
Retail Supply Charge			200.00 $/pa	31 days	$ 16.99
					$ 239.51
Environmental Charges					
LRET Charge		1.0453	1.2670 c/kWh	13,628.84 kWh	$ 180.50
NSW Energy Saving Scheme		1.0453	0.8455 c/kWh	13,628.84 kWh	$ 120.45
SRES Charge		1.0453	0.3583 c/kWh	13,628.84 kWh	$ 51.04
					$ 352.00
Network Charges (EA302)					
Network Access Charge			535.6080 c/day	31 days	$ 166.04
Peak Energy			5.1718 c/kWh	3,675.51 kWh	$ 190.09
Shoulder Energy			1.9569 c/kWh	5,296.03 kWh	$ 103.64
Off Peak Energy			0.8826 c/kWh	4,657.30 kWh	$ 41.11
Capacity kW			36.9001 c/kW/day	85.00 kW	$ 972.32
					$1,473.19

Note: values are made up. DLF/MLF: Distribution/Marginal Loss Factor

Regarding, Tailored Tariff payloads the same sample bill shows data which the current data payloads **do** reflect. The unhighlighted items show the other tariffs which the Tailored Tariff Data payloads do not reflect.

	Contracted Rate x (DLF x MLF)			Metered Rate		Quantity		Cost
Energy Charges								
Peak Energy	15.3381 c/kWh	1.0453	1.0025	16.0730	c/kWh	1,567.22	kWh	$ 251.90
Shoulder Energy	10.4862 c/kWh	1.0453	1.0025	10.9886	c/kWh	6,124.72	kWh	$ 673.02
Off Peak Energy	4.0034 c/kWh	1.0453	1.0025	4.1952	c/kWh	5,936.90	kWh	$ 249.07
Total Consumption Charges						**13,628.84**	**kWh**	**$1,173.99**
Market Charges								
Paricipant Charges		1.0453		0.0226	c/kWh	13,628.84	kWh	$ 3.22
Ancillary Services		1.0453		0.1982	c/kWh	13,628.84	kWh	$ 28.24
								$ 31.46
Metering and Other Charges								
Meter Charge				2,620.00	$/pa	31	days	$ 222.52
Retail Supply Charge				200.00	$/pa	31	days	$ 16.99
								$ 239.51
Environmental Charges								
LRET Charge		1.0453		1.2670	c/kWh	13,628.84	kWh	$ 180.50
NSW Energy Saving Scheme		1.0453		0.8455	c/kWh	13,628.84	kWh	$ 120.45
SRES Charge		1.0453		0.3583	c/kWh	13,628.84	kWh	$ 51.04
								$ 352.00
Network Charges (EA302)								
Network Access Charge				535.6080	c/day	31	days	$ 166.04
Peak Energy				5.1718	c/kWh	3,675.51	kWh	$ 190.09
Shoulder Energy				1.9569	c/kWh	5,296.03	kWh	$ 103.64
Off Peak Energy				0.8826	c/kWh	4,657.30	kWh	$ 41.11
Capacity kW				36.9001	c/kW/day	85.00	kW	$ 972.32
								$1,473.19

In relation to Metering Data payloads, the current payloads do not reflect demand units, highlighted in red below. While some values can be calculated, the E and Q values are independent meter readings which cannot be calculated and are essential to understanding the customer's usage patterns and bill.

NMI	Meter	Period	ReadingDateTime	E	B	Q	K	kW	kVA	Quality
4########0	1	1	27/08/2021 0:00	1.464	0	0.585	0	2.928	3.153107	Actual
4########0	1	2	27/08/2021 0:30	1.353	0	0.597	0	2.706	2.957714	Actual
4########0	1	3	27/08/2021 1:00	1.536	0	0.615	0	3.072	3.309091	Actual
4########0	1	4	27/08/2021 1:30	1.401	0	0.615	0	2.802	3.060082	Actual
4########0	1	5	27/08/2021 2:00	1.305	0	0.621	0	2.61	2.890444	Actual

The above examples illustrate that substantial work is required to ensure the data payloads are suitable for C&I products.