



Government of Western Australia  
Energy Policy WA

# Energy Consumer Data Right in Western Australia

Position Paper

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# 1. Introduction

## 1.1 Background

On 26 November 2017, the Australian Government announced the introduction of a Consumer Data Right (CDR) that will provide consumers with greater access to and control over their data. The CDR has been operational in the banking sector since 1 July 2020, implementation for the energy sector is under development and the telecommunications sector is proposed to follow. It is anticipated that the CDR will eventually apply across the Australian economy.

The CDR will improve consumers' ability to compare and switch between products and services and promote competition between service providers. It could also lead to more innovative products and services and, potentially, better prices for customers.

The CDR is anticipated to commence in the National Electricity Market (NEM) jurisdictions during 2021<sup>1</sup>. However, due to the different design characteristics of the Western Australian energy sector, it will not immediately apply in Western Australia. This paper outlines considerations for implementation of the CDR for the energy sector in Western Australia and indicates that assessment of the regulatory arrangements to support the CDR should be undertaken during 2022.

## 1.2 Energy Transformation Strategy and the Distributed Energy Resources Roadmap

This paper forms part of the work to deliver the Energy Transformation Strategy, the Western Australian Government's strategy to respond to the energy transformation underway and to plan for the future of the Western Australian electricity system.

A major component of the Energy Transformation Strategy, the *Distributed Energy Resources Roadmap* (DER Roadmap)<sup>2</sup>, was released by the Minister for Energy on 4 April 2020. The DER Roadmap is intended to guide changes to policies, regulations, technical requirements and consumer protections to support the integration of DER within the State's electricity systems over the short, medium and longer-term.

Action 33 of the DER Roadmap, reproduced below, indicates a requirement for assessment of the applicability of the CDR to Western Australian energy customers and an applicable customer data regulatory framework.

### Action 33

By September 2020, assess the applicability of the Consumer Data Right to Western Australian energy customers and commence assessment of an applicable customer data regulatory framework.

This paper outlines the Energy Policy WA response to Action 33.

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<sup>1</sup> Australian Energy Market Operator website: <https://aemo.com.au/initiatives/major-programs/consumer-data-right-cdr>.

<sup>2</sup> Available on the Energy Policy WA website at: <https://www.wa.gov.au/government/distributed-energy-resources-roadmap>.

## 2. Consumer Data Right

### 2.1 Overview of the Consumer Data Right

The CDR framework is established under Part IVD of the *Competition and Consumer Act 2010* (Cth). The framework provides general and sector specific rules for accrediting third-party data seekers, accessing data, managing complaints, and ensuring privacy and information security protections.

In addition, there is an accreditation model where data seekers must become accredited before they can receive data. Once accredited, data recipients must obtain the explicit agreement of consumers before receiving consumer data.

The core obligations of the CDR regime will be on data holders, such as a retailer, and accredited data recipients, such as a provider of household battery storage systems (together known as CDR participants). Broadly, these obligations are:

1. At a consumer's direction, a data holder will be obliged to share a consumer's data with either:
  - a. an accredited data recipient to whom the consumer has provided their consent; or
  - b. the consumer themselves.
2. A data holder will be required to make certain generic product data publicly available.

In addition to the legislation, a designation instrument, rules and technical standards will comprise the CDR framework. The framework will specify:

- the consumers who can take advantage of the CDR;
- applicable datasets;
- the criteria an entity must satisfy to be an 'accredited data recipient';
- requirements for consumer consent;
- requirements for authorisation and authentication; and
- the limitations a consumer can place around the use of their data.

#### 2.1.1 Governance framework

Under the CDR framework, three agencies hold responsibility for establishing a governance framework to ensure data is shared safely, securely and effectively:

- The Australian Competition and Consumer Commission (ACCC), as the lead CDR regulator, is responsible for providing advice to the Commonwealth Treasurer as to whether to designate a sector and, where a sector is designated, the consumer datasets subject to the CDR. It will also draft CDR Rules that determine how the CDR will operate, accredit potential data recipients, monitor compliance and enforce rules, and establish and maintain a registry of accredited persons.
- The Office of the Australian Information Commissioner is the contact agency for privacy complaints.
- The Commonwealth Scientific and Industrial Research Organisation (CSIRO) Data 61, as the inaugural CDR standards body, is responsible for determining common technical standards for the data.

Consideration of the role of external dispute resolution bodies (e.g. state and territory energy ombudsman schemes) in managing consumer disputes under the CDR is ongoing<sup>3</sup>.

## 2.2 Consumer Data Right in energy

In a similar manner to other parts of the economy, the energy sector is becoming more decentralised, democratised and data driven. The roles of energy participants and the flows of data are changing, which means that a framework governing the use and security of energy data is essential to give consumers peace of mind when interacting with industry participants. The applicability of CDR to the energy sector has been recognised by Energy Consumers Australia<sup>4</sup>, the Productivity Commission<sup>5</sup> and the Finkel Review<sup>6</sup>.

Application of the CDR to the energy sector will be achieved by specifying the data holders and datasets to which the CDR applies through a designation instrument prepared by the Commonwealth Department of the Treasury and issued by the Commonwealth Treasurer. This will be supported through the Commonwealth CDR framework, rather than through national and jurisdictional energy legislation. However, in the NEM, changes to the national energy laws are needed to ensure alignment of CDR datasets with the regulatory regime.

The Commonwealth Treasury undertook consultation on the proposed energy designation instrument in September 2019. On 26 June 2020, the Commonwealth Treasurer made the designation instrument specifying the coverage of datasets and data holders. The datasets in this instrument are intended to apply across the energy sector, including in Western Australia. However, the Commonwealth Treasurer would need to amend the instrument for Western Australia to participate in the regime, as the instrument currently applies only to participants in the NEM jurisdictions.

The regime will commence in the NEM jurisdictions following development of ACCC rules and Data 61 technical standards, which will ensure the safe, convenient and efficient operation of the CDR arrangements. On 8 July 2020, the ACCC released a public consultation paper on the proposed energy CDR rules, with submissions closing on 28 August 2020<sup>7</sup>.

### 2.2.1 Energy datasets

The energy CDR datasets are summarised in Table 1. A single dataset will apply to the gas industry, whereas all datasets will apply to the electricity industry.

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<sup>3</sup> See for example the ACCC [CDR – Energy rules framework: Consultation Paper](#), July 2020.

<sup>4</sup> Energy Consumers Australia, [Electricity Meter Data Portability: Discussion Paper](#) (2017).

<sup>5</sup> Productivity Commission [Data Availability and Use Inquiry](#) (2017).

<sup>6</sup> Dr A Finkel AO et al, [Independent review into the future security of the National Electricity Market: Blueprint for the future](#).

<sup>7</sup> ACCC, [CDR – Energy rules framework: Consultation Paper](#), July 2020.

**Table 1: CDR energy datasets<sup>8</sup>**

| <b>Data Category</b>                                    | <b>Components</b>  | <b>Application</b>  |
|---|--|---------------------|
| <b>National Metering Identifier (NMI) standing data</b> | Includes the NMI, meter installation type, average daily load, network tariff code and presence of a controlled load.                                  | Electricity         |
| <b>Customer provided data</b>                           | Includes an individual's full name or business name, address, entity type, contact details and the presence of life support equipment (if applicable). | Electricity         |
| <b>Billing data</b>                                     | Breakdown of amounts charged and received, discounts issued, payment method, hardship or concessional arrangements.                                    | Electricity         |
| <b>Generic tariff data</b>                              | All product data not linked to an identifiable person such as standing and usage charges, feed-in tariffs, discounts or rebates applicable.            | Electricity and Gas |
| <b>Tailored tariff data</b>                             | Data relating to an identifiable customer such as the tariff plan, concessions and discounts received.   | Electricity         |
| <b>Register of Distributed Energy Resources</b>         | The presence of distributed energy resources such as batteries and solar photovoltaic systems at the premises.   | Electricity         |
| <b>Metering data</b>                                    | A record of the production and consumption of electrical energy for Type 1 to 6 electricity meters.  | Electricity         |

## 2.3 Implementation of the Consumer Data Right in the National Electricity Market

The CDR is expected to apply in the NEM jurisdictions from late 2021.

The Australian Energy Market Operator (AEMO) has been selected to operate the gateway that will enable the exchange of energy data between third parties (or data recipients) and data holders<sup>9</sup>. The AEMO Gateway model is endorsed as the ACCC's preferred model for third party access to energy consumer data in the NEM, as it provides a high level of user functionality and is cost-effective. The gateway will provide benefits by automating authentication, facilitating data exchange between data holders and accredited data recipients, capturing customer consent and coordinating with the ACCC's accreditation register.

<sup>8</sup> *Consumer Data Right (Energy Sector) Designation 2020*, available at <https://www.legislation.gov.au/Details/F2020L00833>.

<sup>9</sup> ACCC, *Position Paper: Data Access Model for energy data*, August 2019.

## 3. Consumer Data Right considerations for Western Australia

### 3.1 Data provisions under the licensing regimes

In Western Australia, customer access to data is mostly established through the electricity and gas licensing regimes. For electricity, the licensing scheme operates under the *Electricity Industry Act 2004* (Electricity Industry Act). For gas, the licensing scheme operates under the *Energy Coordination Act 1994*. Electricity distributors and retailers and gas retailers are required to facilitate customer access to specified data as a licence condition.

The Economic Regulation Authority (ERA) is responsible for administering the licensing schemes, including granting licences and determining their terms and conditions. Licensed entities are required to comply with obligations prescribed by the above legislation and associated regulations and codes. The ERA also assesses the performance of licensees and undertakes compliance monitoring.

Due to the differing legislative requirements and market structures, the obligation for gas distributors to supply gas retailers with historical standing and metering data is placed in the Gas Retail Market Procedures (WA), which sit outside the licensing framework.

The existing data access rights for Western Australian energy customers and their nominated representatives are summarised in Table 2 below.

**Table 2: Data provision for Western Australian energy consumers**

| Data  | Instrument   |
|---|--|
| Electricity retailers must provide consumption and standing data to customers for billing purposes and for the provision of metering services (cl. 5.17).   |  |
| Electricity network operators must provide consumption and standing data to a third party nominated by a customer within 10 days of a request or at regular intervals (cl. 5.17A).  | <b>Electricity Industry (Metering) Code 2012</b>   |
| Electricity retailers and network operators must not disclose or permit disclosure of confidential information provided to them and can only use the information for the purpose it was disclosed or as contemplated by the Code (cl. 7.5). |  |
| Gas network operators must provide consumption and standing data to a user nominated by the customer within 5 days of the request (cl. 166A - 168)  | <b>Retail Market Procedures (WA)</b>   |
| Electricity retailers must provide historical billing data to non-contestable <sup>10</sup> , small use customers within 10 business days (cl. 10.2).   | <b>Code of Conduct for the Supply of Electricity to Small Use Customers 2018 (Customer Code)</b> |
| Electricity distributors must supply small-use customers with historical consumption data within 10 business days (cl. 10.7).   |  |

<sup>10</sup> Electricity customers that consume or are expected to consume not more than 50 megawatt hours of electricity per annum.



| Data   | Instrument   |
|--|--|
| On request a gas retailer must provide a small use customer <sup>11</sup> with their billing data within 10 days (cl. 10.2).   | <b>Compendium of Gas Customer Licence Obligations (Compendium)</b> |
| An electricity retailer can access from another retailer the historical consumption data of a contestable customer <sup>12</sup> to enable it to create a competitive quote for electricity to the customer. | <b>Electricity Industry (Customer Transfer) Code 2016</b>          |

The information in Table 1 indicates that much of the data expected to be provided through the CDR is already available to customers in Western Australia, albeit with a less prescriptive governance, accreditation and privacy framework.

### 3.1.1 Data dashboards

Electricity retailers and distributors and gas retailers have data dashboards that enable customers to access their standing and usage data. Generally, the information provided through these data dashboards exceeds the entities' regulatory requirements. Examples of the data portals are provided in Table 3.

**Table 3: Data that Western Australian energy consumers may access**

| Entity                                   | Types of available data   |
|--|---|
| <b>Synergy's My Account portal</b>       | <p>Provides historical consumption in an exportable format. The data can be extracted and supplied separately by customers to third parties via email.</p> <p>Provides an outline of customer payment details and the amount of energy exported from their solar photovoltaic system.</p>   |
| <b>Horizon Power's My Account portal</b> | <p>Provides historical consumption in an exportable format. The data can be extracted and supplied separately by customers to third parties via email.</p> <p>Provides an outline of customer payment details and the amount of energy exported from their solar photovoltaic system.</p> <p>Provides additional functionality for consumers that use its mobile application by allowing prepayment of bills, and daily or hourly electricity usage data.</p> |

<sup>11</sup> Gas customers that consume or are expected to consume not more than 1 terajoule of gas per annum.

<sup>12</sup> Electricity customers that consume or are expected to consume more than 50 megawatt hours of electricity per annum may choose their retailer.

| Entity   | Types of available data   |
|--|---|
| <b>Western Power’s Metering Self Service Centre web portal</b> | <p>Designed for third parties to access the standing and historical consumption data for contestable customers that have provided their consent.</p> <p>On request, the data is provided by email or to a secure online portal that enables data to be downloaded manually. The data is provided in a machine-readable format.</p> <p>The inability for data to be extracted via an Application Programming Interface<sup>13</sup> (API) could be a constraint for third parties that prefer data to be extracted autonomously.</p> |
| <b>Retailers to small use gas customers</b>                    | Provide historical billing, usage and account information.  |

There are no known significant impediments to customers, or authorised third parties, accessing electricity or gas data under Western Australia’s existing arrangements.

### 3.1.2 Governance

All electricity and gas licensees are required to periodically engage an independent expert (auditor) to conduct an audit of their compliance with licence obligations, including those listed in Table 2. Recent audits indicate that energy retailers are providing requested data to customers within mandatory timeframes and that there are adequate controls in place to service these requests<sup>14</sup>.

While there is a governance framework associated with licensees providing data to customers and their third-party representatives, data obligations are a relatively minor subset of the licensing obligations.

Privacy of this customer data is provided for through general privacy provisions.

## 3.2 Market and structural considerations specific to Western Australia

The design aspects of the Western Australian energy sector will require a customised implementation model for CDR. Western Power’s role in the electricity market includes administering the meter database which contains standing and metering data from across the South West Interconnected System (SWIS). Unlike in the NEM, AEMO does not have visibility over this database, although it does operate the e-Hub for the gas market.

The CDR framework requirements do not automatically apply to state-owned entities. The Federal Treasurer is required to seek Western Australian Government agreement if the CDR requirements are to be applied to Western Australian state-owned electricity entities<sup>15</sup>.

<sup>13</sup> An API is a piece of software that allows two applications, such as between a data holder and data recipient, to communicate with each other securely and efficiently.

<sup>14</sup> The Performance Audits for Synergy, Horizon Power and Alinta Energy are available on the Economic Regulation Authority website at <https://www.erawa.com.au/>.

<sup>15</sup> Section 56AS, Competition and Consumer Act 2010.

In addition to the structural arrangements, there are limited advanced meters in Western Australia. Western Power is investing \$285 million in the three years to 2021-22 to enable deployment of advanced communications-enabled metering<sup>16</sup>. This will facilitate more efficient use of the network, innovative tariff design and innovative products and services for customers.

Implementation of the CDR in the Western Australian energy sector will need to take account of the unique market and structural elements that exist in the State.

### 3.3 Energy reforms

Reforms are underway in Western Australia impacting implementation of the CDR regime for the energy sector. These reforms include the following projects currently being undertaken by the Energy Transformation Taskforce and Energy Policy WA:

- The DER Roadmap proposes a collection of actions to harness the capabilities of DER and address the challenges faced by the local power system due to the increasing share of DER and intermittent generation. The DER Roadmap identifies that the role of energy participants will change and highlights the importance of a framework to ensure customer data is protected as new services and business models emerge.
  - Action 15 of the DER Roadmap requires the establishment of a DER Register to collect and make data available on DER installed across the SWIS. The DER register is expected to be implemented in 2021. This initiative provides static data on equipment and is consistent with one of the NEM datasets. Any future system, with increasing amounts of DER, will have an increasing reliance on data, as data becomes essential to maintain system stability and for market participants such as aggregators to provide services to, and on behalf of, customers.
- The proposed roles of the Distribution System Operator (DSO) and Distribution Market Operator (DMO) in managing the performance of the power system in real time and the flows of energy data between the DMO, DSO and DER aggregators.
  - Action 24 of the DER Roadmap requires a plan to be developed by December 2020 for the establishment of the DSO and DMO in the SWIS. The plan will include identify the roles, functions, costs and practical operations of the two entities.
- The Retail Electricity Licensing and Exemptions Review is proposing legislative amendments to the Electricity Industry Act to introduce a regulatory framework for alternative electricity services, that will ensure electricity consumers have adequate customer protections regardless of the business model used for the delivery of these supplies.
  - The new framework will include an alternative electricity services code of practice to which providers of alternative electricity services will have to adhere. In the first instance, behind-the-meter products and services, such as solar power purchase arrangements, will be regulated under the new framework. Over time, other services such as microgrids are likely to be included.

Application of the CDR will need to leverage these developments to ensure maximum benefits to customers and service providers.

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<sup>16</sup> <https://www.mediastatements.wa.gov.au/Pages/McGowan/2020/09/Advanced-meters-protect-and-benefit-WA-homes.aspx> and <https://www.mediastatements.wa.gov.au/Pages/McGowan/2019/04/Advanced-meters-to-unlock-more-efficient-safer-electricity-network.aspx>.

## 4. Determining applicability of the Consumer Data Right in the Western Australian energy sector

Providing access to data under a robust governance framework is in the long-term interest of all customers. While energy customers in Western Australia have certain rights to data and industry participants have been proactive in making additional data available to customers through online portals, the Commonwealth Government CDR provides a common framework with specified data standards that apply to all parties.

Given the implications of the regulatory reforms outlined in Section 3.3 for the application of the energy CDR in Western Australia, Energy Policy WA considers that an assessment of the regulatory and policy arrangements for CDR in relation to the energy sector should be undertaken following the substantive completion of these reform actions. This timeframe will also present an opportunity to monitor developments of the CDR framework in the NEM jurisdictions and its impacts on customers, energy sector participants and new energy service providers.

### Proposed Approach

That the implementation of the CDR for the Western Australian energy sector be assessed in 2022, following implementation and evaluation of the reform work program underway by the Energy Transformation Taskforce and Energy Policy WA.