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Ms Fiona Walker  
Director, Consumer Data Right Division  
The Treasury  
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By online submission

Dear Ms Walker,

### **Consumer Data Right in the Energy Sector – Exposure Draft Rules and Regulations**

AEMO welcomes the opportunity to provide feedback on the Treasury's draft CDR Rules and Regulations published on 17 August 2021. AEMO supports the application of the peer-to-peer (P2P) model to deliver CDR benefits to energy consumers in a way that minimises regulatory costs and duplication across the sector. The introduction of CDR is expected to complement key Energy Security Board reforms: the integration of distributed energy resources and enabling demand side participation. As consumers seek to participate in new markets and access new services and products, CDR data will be increasingly valuable in informing consumer choice. While the proposed CDR regime for the energy sector is in many ways akin to the banking sector, the draft CDR Rules and Regulations provide for some variations to ensure that the P2P model accounts for unique aspects present in the energy sector.

This includes the introduction of new concepts and terms, such as Shared Responsibility (SR) data and secondary data holders. These new terms define AEMO's CDR obligations which primarily relate to providing an online service to receive and respond to data requests from retailers (as the primary data holder), responding to SR data requests (by either disclosing or refusing to disclose), providing information to retailers with respect to complaints/disputes, keeping and maintaining records and preparing reports. Based on our review, AEMO considers that draft CDR Rules and Regulations, for the most part should provide for a CDR regime in the energy sector as intended. However, AEMO has identified a number of issues that require further consideration and clarification prior to finalising the CDR Rules and Regulations which are set out below.

#### *Competition and Consumer Amendments (Consumer Data Right) Regulations 2021*

AEMO supports the proposed amendments to the Competition and Consumer Regulations that exempt AEMO (as a data holder) from complying with the Privacy Safeguards 1, 10 11 and 13.

To support and provide clarity to the application of the P2P model to the energy sector, AEMO recommends additional amendments to the Competition and Consumer Regulations, in light of

the shift from a gateway to P2P model without consequential changes to the designation instrument.

As the designation instrument will not be amended at this point in time, AEMO proposes the Competition and Consumer Regulation include amendments to the effect that, notwithstanding the 2020 designation instrument, AEMO is exempt from the application of the Competition and Consumer Act as it applies to the designated gateway. This would provide certainty to AEMO as to its future CDR obligations and implementation efforts to meet these obligations.

### *CDR Data Definitions and Scope*

AEMO considers that the draft CDR Rules definitions for CDR data for which AEMO is the data holder may require refinement to meet the policy intent.

The designation instrument specifies AEMO as the data holder for NMI standing data, metering data and Distributed Energy Resource (DER) Register information and that each of these terms have the meaning given by the National Electricity Rules (NER).

The draft CDR Rules set out the meaning of terms for types of data, including data for which AEMO is the data holder (Schedule 4, clause 1.3). Under the draft CDR Rules, datasets are defined by the meaning given by the NER and in addition, specific key data 'inclusions' are called out. The Exposure Draft Explanatory Materials state the Rules define energy datasets with a broad descriptor of the dataset and specify *minimum* inclusions of key data. This approach is to allow flexibility for further refinement and specification of datasets in the standards<sup>1</sup>.

AEMO generally agrees with the intended approach of providing consistency between the NER and the CDR Rules and flexibility to amend the datasets as CDR in the energy sector develops and matures. While AEMO understands the policy intent of specifying key data inclusions, this may be better served by listing particular data as examples rather than selected 'inclusions'. This could be done by a note in the dataset definitions in Schedule 4, clause 1.3 that provides examples of key CDR data inclusions. This will avoid potential inconsistencies arising between the NER and the CDR Rules over time as well as consistency between the CDR Rules and the data standards. Attachment 1 outlines for Treasury's consideration, how this might be achieved.

AEMO supports the scope of CDR data as defined by the "required consumer data". In short, AEMO must respond to requests for metering, NMI standing and/or DER register data for eligible CDR consumers with an account for up to two years, providing the data relates to that account. However, for historical metering data, the request may not relate to that account but rather must relate to the time at which an account holder was associated with the premise for the request. This will allow consumers who have changed retailer within the two year period whilst at the same premise access to historical metering data. (i.e. closed accounts). AEMO supports proposed requirements given the value of historical metering data to consumers and is assessing system changes required to facilitate the provision of this data. AEMO has proposed

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<sup>1</sup> Exposure Draft Explanatory Materials, Competition and Consumer (Consumer Data Right) Amendment Rule (no. 2) 2021 page 9

amendments in Attachment 1 to the meaning of metering data to ensure alignment of key clauses in the CDR Rules (i.e. Schedule 4, clauses 1.3 and 3.2) for effective operation of CDR in the energy sector.

AEMO recognises for large energy users that there may be tariff structures that require metering data other than active power meter values held by AEMO. However, to the extent that the designated data sets held by AEMO are useful to large energy consumers it can be provided without incremental costs to implementation.

#### *Corrections of CDR Data held by AEMO*

AEMO supports the proposed arrangements to rely on existing National Electricity Rules procedures to correct data.

#### *Civil Penalties*

AEMO understands and agrees with the policy intent for civil penalties not to apply to AEMO. This is largely achieved by the Schedule 4, clause 4.5 which states that “Rule 9.8 (Civil penalty provisions) do not apply in relation to AEMO in relation to energy sector data.” However, there are a number of CDR rules where civil penalty provisions may apply regardless of the operation of Rule 9.8 (as the words “civil penalty” and the associated penalty are hardwired into the respective clause rather than rule 9.8):

- Clause 9.3(1) Failure to keep and maintain records required under Rule 9.3
- Clause 9.3(5) Failure to keep records required under Rule 9.3 for 6 years
- Clause 9.4(1) Failure to prepare reports as required under Rule 9.4
- Clause 9.4(1A) Failure to prepare reports as required under Rule 9.4(1A).

To meet the policy intent AEMO would recommend clarifying schedule 4, clause 4.5 to ensure that, in addition to exceptions for Rule 9.8, other clauses that are civil penalty provisions within the meaning of the Regulatory Powers Act do not apply in relation to AEMO in relation to energy sector data.

#### *Implementation*

AEMO recommends that the implementation of tranche 1 of CDR in the energy sector commences 12 months after the CDR rules and standards are finalised. This is to provide data holders with sufficient time to develop, test and deploy system capabilities and processes to effectively implement tranche 1.

If the CDR rules and standards are finalised in October 2021, and AEMO has an established pathway to recover implementation costs in that same timeframe, commencement of tranche 1 would be achievable in October 2022.

To meet the policy intent, it is AEMO's expectation that changes to standing data under the National Electricity Rules procedures will be required. This will support the provision of historical metering data where a consumer has changed retailer and will be implemented as a co-requisite with the CDR implementation.

Should you wish to discuss any of the matters raised in this submission please contact Kevin Ly, Group Manager Regulation on [kevin.ly@aemo.com.au](mailto:kevin.ly@aemo.com.au).

Yours sincerely,



Tony Chappel  
**Chief External Affairs Officer**

Attachment 1

**metering data**, in relation to an account holder for an account associated with the premises to which the request relates (a) means metering data, other than metering data for a type 7 metering installation, within the meaning given by the National Electricity Rules, that relates to an account holder for an account associated with the premises to which the request relates.

NOTE: The definition of metering data includes, for example,

~~(b) includes:~~

- (i) the NMI associated with the metering data; and
- ~~(i) the unique identifier for each connection point associated with the metering data~~
- ~~(ii) the meter serial number; and~~
- (iii) the meter read start and end date; and
- (iv) for a basic meter read—that fact and the meter read value; and
- (v) for an interval meter read—that fact and the interval length, meter read per interval and sum of meter reads per interval.

**NMI standing data**, in relation to a particular account (a) means NMI standing data, within the meaning given by the National Electricity Rules, that relates to a connection point associated with the account

NOTE: The definition of NMI standing data includes, for example,

~~(b) includes the following:-~~

- (i) the network tariff code;
- ~~(ii) the unique identifier for the connection point;~~
- (iii) the NMI;
- (iv) the NMI classification code;
- (v) the NMI status code;
- (vi) the relevant jurisdiction code;
- ~~(vii) the start date from which the information for this NMI is valid;~~
- (viii) the customer classification code;
- ~~(ix) the customer threshold code;~~
- (x) information about the distribution loss factor;
- (xi) information about related participants associated with the NMI;
- (xii) the street address associated with the NMI;
- (xiii) information about the meters associated with the NMI;
- (xiv) information about the usage data ~~streams~~ available from the meters.

**DER register data**, in relation to a particular account (a) means DER register information, within the meaning given by the National Electricity Rules, for DER that relate to the account

NOTE: The definition of DER register data includes, for example,

~~(b) includes:~~

- (i) the NMI associated with the metering data that relates to the DER; and
- ~~(i) the unique identifier for each connection point associated with the metering data that relates to the DER; and~~
- (ii) the approved small generating unit capacity as agreed with a network service provider in the connection agreement; and
- ~~(iii) the number of phases available for the installation of DER; and~~
- ~~(iv) the number of phases the DER are connected to; and~~
- ~~(v) information identifying small generating units designed with the ability to operate in islanded mode; and~~

(eb) excludes any personal information of third parties, including contractors and individuals who install or repair DER.