

13 September 2021

Consumer Data Right Division  
Treasury  
Langton Cres  
Parkes ACT 2600

**Via email to:** data@treasury.gov.au

Dear Sir/Madam

### **Consumer Data Right for Energy: Proposals for Further Consultation**

Thank-you for the opportunity to provide a submission in response to the August 2021 consultation paper titled 'Consumer Data Right in the energy sector: Proposals for further consultation' (the Consultation Paper).

Momentum Energy Pty Ltd (Momentum) is an Australian operated energy retailer, owned by Hydro Tasmania, Australia's largest producer of renewable energy. We pride ourselves on providing competitive pricing, innovation and outstanding customer service to electricity consumers in Victoria, New South Wales, South Australia, Queensland, the ACT and on the Bass Strait Islands. We also retail natural gas to Victorian customers. We offer competitive rates to both residential and business customers along with a range of innovative energy products and services.

Momentum advocates for a low-risk, least-cost approach for implementation of the Consumer Data Right in the energy sector (CDR). Whilst we acknowledge CDR will deliver some benefits for customers, Momentum is still concerned these benefits were never fully quantified or costed. For example, the energy market is already very competitive; regularly experiencing customer churn rates in excess of twenty-five percent per annum.<sup>1</sup> It seems unlikely that CDR's alternative process of providing access to historical energy data will result in any step change to those customer churn rates. Whilst there are still some customers that fail to engage in the competitive energy market (with 10-15 percent of the market on standard retail contracts<sup>2</sup>), there is still no evidence that apathetic customers will be encouraged by the availability of CDR to engage in the energy market. Many of these consumers are transient or simply not interested in sourcing alternative energy offers. Therefore, Momentum's responses to the Consultation Paper are hinged on a low-risk, least-cost approach implementation of CDR.

#### **Specific Responses to Proposals Raised in the Consultation Paper**

The following measures have been proposed in the exposure draft rules:

Proposal 1: All NEM retail customers are eligible CDR consumers, irrespective of size – The rules require data holders to share energy CDR data in relation to all retail customers in the National Electricity Market (NEM), irrespective of their level of consumption.

<sup>1</sup> Australian Energy Regulator (2021) 'State of the energy market' p255 (fig 6.5)

<sup>2</sup> Australian Energy Regulator (2021) '[State of the energy market](#)' p252 (fig. 6.4)

Momentum contends that not all NEM retail customers ought to be eligible CDR consumers. To ensure efficiency, eligibility should be restricted to exclude larger customers in the market, based on annual electricity consumption determined by meter type.

We understand the intent of allowing all customers' access to the CDR; ensuring a broad and inclusive approach. However, the energy market includes a large range of customer categories with different energy consumptions and demand idiosyncrasies. These range from the very large, industrial, energy-intensive industries to the very small, residential unit. These different customer categories manage and source their electricity needs in vastly different ways. Somewhere between these two ends of the range sit small medium enterprise (SME) customers; a subset of customers for which CDR proponents have shown particular concern, in response to findings they are currently neglected by energy retailers and would thus benefit the most from CDR. Whilst not disputing these findings, we are concerned about the impacts of unrestricted application of CDR.

The inclusion of all customers into the CDR fails to appreciate that very large, industrial customers manage and source their energy needs in a customised manner. For instance these customers:

- (a) usually employ an energy broker or consultant to manage their energy purchases;
- (b) negotiate bespoke contracts with different terms and conditions;
- (c) often have independent metering data monitoring systems to measure and manage their electricity consumption and demand; and
- (d) often require real time metering data to maximise the benefits and to arbitrage their electricity exports and consumption direct with the wholesale electricity market.

Therefore, Momentum rejects the assertion that access to the CDR is of value to large customers and submits their inclusion in the CDR is unjustified.

In recent CDR forums with Treasury and the Data Standards Body, it was mentioned that a reason to include large customers in the CDR was due to complaints received from energy brokers and consultants that had experienced delays sourcing energy data from retailers. Momentum sought the opinion of an independent energy consultant on this matter and they advised they had no trouble sourcing historical energy data from retailers. They said subject to suitable proof of consent from the customer, they usually received data in 1-2 business days. In any case, if retailer delay was proven to be an issue, Momentum would support the introduction of regulation to mandate the timeliness of data requests to consultants. This approach would be more efficient than including these customers within the CDR.

In conclusion, Momentum contends that CDR eligibility would be most appropriately determined using a threshold of annual electricity consumption based on meter type. This is not unlike how the initial tranches of customer contestability were established some time ago. All customers with an annual consumption equal to or greater than 160 MWh require an interval meter under the national electricity metering rules, therefore eligibility for CDR could be structured so that only customers below this threshold are eligible. Many of these customers will have basic meters (in non-Victorian jurisdictions), an annual electricity bill of less than \$30,000 and are expected to gain most by accessing the CDR. Moreover, this criteria will still capture at least 95% of all electricity customers in the NEM.

Proposal 2: Process for responding to correction requests for Australian Energy Market Operator (AEMO) held CDR data – The rules provide a process for the correction of AEMO held CDR data that utilises existing data correction processes in the National Electricity Rules for NMI standing data and metering data, and requires retailers to initiate correction of distributed energy resources (DER) register data with the relevant distributor.

Momentum expects the existing data correction process to be suitable for the correction of data held by AEMO and requested under CDR.

In relation to AEMO's role as a data holder, Momentum would like to highlight that in many cases, the retailer may already hold the same data AEMO holds, yet retailers are still required to request this data from AEMO. AEMO's role should be more of an optional repository; giving retailers the freedom to provide consumers with data themselves or request this data from AEMO if need be.

Under the exposure draft rules, AEMO is not responsible for managing any customer complaints relating to their CDR data. So, rather than having to refer to AEMO, it would be more efficient for retailers to handle delivery of data they already hold, as they will then be responsible for managing complaints related to that data.

At a recent industry forum, Treasury suggested the proposed approach supported future changes whereby AEMO would also provide data related to sites that were supplied by non-current retailers. Momentum is concerned that this outcome is unlikely to occur as it relates to AEMO holding and managing customer verification/validation for this data, and it introduces a complex component to CDR that may never be used. In keeping with Momentum's assertion that a least-cost approach should be the primary objective of the implementation of CDR, Momentum posits that AEMO's role as a data holder should be reviewed.

Proposal 3: Staged application of rules to the energy sector – The rules provide a staged implementation of CDR obligations in the energy sector in two tranches.

In the previous consultation, Momentum proposed four tranches for CDR implementation to account for the significant difference in the customer numbers of each of the three tiers of retailers. This recommendation was based on the argument that implementation costs could be more readily shared across a greater number of customers, lessening disruption to the whole energy market. Furthermore, targeting the tier one retailers first would better serve the purpose of CDR as they have more standing offer customers (i.e. customers with the most to benefit from CDR).

We support the two tranche implementation proposed by these exposure draft rules however, we are concerned by the initial implementation deadline of 1 October 2022 for tier one retailers. We are keen to understand when AEMO will have its systems and processes available. Retailers' ability to implement CDR will hinge on these systems and processes, therefore the AEMO timeline project plan should be developed first (with consideration given to all other proposed energy industry changes) and then, once retailers can test and assess this plan, retailers should be consulted to determine the most appropriate timeline for CDR implementation.

The current timeline appears far too aggressive with tier one retailers expected to deliver on this complex new initiative in under 12 months regardless of any other industry changes that will be, or have been, planned.

## Dispute Resolution

Momentum is concerned with the proposed designation of multiple external dispute resolution (EDR) schemes under CDR. The proposal allows non-retailer Accredited Data Recipient (ADR) complaints to be managed via the Australian Financial Complaints Authority (AFCA) and retailer ADR complaints to be managed via their respective ombudsman schemes. Momentum asserts that this will be problematic for customers and will likely result in increased ombudsman costs for retailers. For example, energy customers are likely to be more familiar with their respective energy ombudsman schemes and will seek their involvement to resolve CDR issues. The ombudsman will then be required to determine whether they have jurisdiction to hear the complaint, and if not, re-direct the customer, wasting the time and resources of the ombudsman. Whilst we understand that Treasury is keen to minimise ADRs' barriers for entry into CDR, we are of the view that prompt resolution of consumer complaints will be expected and the most efficient way to achieve this is by having a single dispute body manage all energy CDR complaints. The only reasonable resolution for this issue appears to be to mandate that non-retailer ADRs join the respective energy ombudsman schemes. This will ensure a consistent, cost-effective and consumer-focused approach to all energy CDR customer complaints.

Should you require any further information regarding this submission, please don't hesitate to contact me on 0478 401 097 or email [randall.brown@momentum.com.au](mailto:randall.brown@momentum.com.au).

Yours sincerely

[Signed]

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