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Facilitating access to consumer electricity data

The Australian Energy Council (the Energy Council) welcomes the opportunity to comment on the HoustonKemp draft report *Facilitating access to consumer electricity data* (February 2018) prepared for the Department of Environment and Energy (Department).

The Energy Council is the industry body representing 21 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

The Energy Council supports the Department in considering measures to improve data access in the energy sector. Supported by an appropriate regulatory framework, facilitating customer and third-party access to data has the potential to encourage competition in retail energy markets and ultimately improve outcomes for customers. Access to energy consumption data, energy export data and fee and pricing information can enable consumers to compare offers in retail energy markets based on actual consumption profiles. Improved data access also has the potential to aid the development of new products, services and business models, and accelerate the transition towards customer-centric energy markets with a broad range of energy services catering to diverse customer needs.

The proposed regulatory framework to implement the Consumer Data Right set out in the Open Banking report appears, broadly speaking, to be capable of delivering on these outcomes in the energy sector. Our submission to Treasury on these matters is [attached](#) (refer Schedule 1).

Customer rights to energy data

In practice, many customers with smart meters now have ongoing access to their energy data provided by either their retailer, distributor or both. It is increasingly common for retailers to offer smart-phone and tablet-based apps allowing interested customers to track their energy consumption and bills (for example, on a day-behind basis). Many retailers also provide regular email updates to their customers showing energy consumption levels and pricing on a daily, weekly or monthly basis. These services enable customers to better track their energy use, understand its bill impact and avoid 'bill shock' at the end of the billing period. Additionally, retailers and energy service providers are already providing value-added data services to customers such as additional consumption information, smart appliance monitoring, and advanced data analytics.

The provision of energy data (including consumption and export data) occurs within a heavily regulated context. Retailers are required to manage compliance risk with confidentiality obligations under the National Electricity Rules (NER) as well as privacy law. While customers currently have rights to access historical energy data under the NER, and to authorise third party access to that data, regulatory and technical challenges in sharing consumption data with third parties remain.

The draft paper points to the risks attaching to retailers’ disclosing customer energy consumption data to third parties under the Privacy Act, common law and the NER. It proposes that a uniform verification scheme would allow companies to manage these compliance risks. Retailers assess their compliance requirements with these privacy and confidentiality obligations on an individual basis. In the AEC’s view, a regulatory approach which addresses privacy law implications of data disclosure at a national level, and through a Commonwealth legislative framework that specifically regulates these issues, is the best means of creating certainty around privacy law risk for retailers. Energy-specific reforms such as amendments to the NER are not capable of addressing risks that arise under Commonwealth legislation. The reasons for this are further outlined in our submission to Treasury (p 2).

Consistency with Open Banking regulatory framework

We are concerned that, if implemented, the proposed approach in the HoustonKemp report risks developing a data access framework for the energy sector which is inconsistent with the key principles in the Open Banking report. Key differences in the respective approaches are highlighted in the table below.

HoustonKemp report	Open Banking report
<ul style="list-style-type: none"> • Centralised approach – AEMO systems as the ‘data hub’ providing access to data AEMO collects • Limited to the data available via AEMO – currently, this is energy consumption data. However long term view of increasing data available to include eg tariff information • AEMO to establish and administer data access scheme procedures, standards and accreditation regime • Energy-specific approach, not concerned with interoperability between sectors 	<ul style="list-style-type: none"> • Decentralised approach – a data holder provides access to the data it holds through an application programming interface (API) • Applies to all consumer transaction data – this would include energy consumption data, energy export data and fees and charges payable under the contract • ACCC to establish and administer data access rules, standards and accreditation regime (with input from relevant regulators) • Promotes interoperability between sectors

Role of AEMO

The proposed role for AEMO in establishing and administering the data access scheme – including data access procedures, data standards and accreditation regime – marks a material departure from the existing regulatory approaches in the national electricity market. As market operator, AEMO has considerable technical expertise in the National Electricity Market which could be usefully utilised in the development of data standards and potentially any technical requirements related to accreditation. AEMO has not, however, played a role in developing customer protections or providing services to customers or their representatives. Nor does it have the necessary enforcement powers to manage non-compliance with the scheme. Similarly, to date AEMO has received only data that it requires for operational purposes (including market settlements and network purposes).

There is merit in considering how AEMO could facilitate access to the data it holds. Similarly, we support AEMO playing a role in technical matters related to any data access scheme. In our view, this role should be considered within the context of the broader regulatory framework for a consumer data right proposed in the Open Banking report. Under this approach, the question would be whether AEMO could be considered one of a number of ‘data holders’ responsible for providing third party data access. AEMO would also be a relevant body under the broader framework established by the ACCC, playing a particular role in the development of data standards and technical aspects of accreditation.

Development of Consumer Data Right in energy sector

Governments, energy market bodies and industry face considerable work ahead in developing and implementing a comprehensive Consumer Data Right as envisaged in the Open Banking report. As a result, we expect that customer outcomes will not quickly be realised in the short term (noting implementation for the banking sector will precede detailed consideration of the energy sector). There is merit in considering whether any more short-term actions can be taken to realise some of the benefits of improved data access arrangements in the interim, including through facilitating access to data that AEMO holds. However, the Energy Council supports such initiatives only insofar as they:

- a) are consistent with the purpose, approach and ultimate regulatory framework to be introduced when the comprehensive Consumer Data Right is applied to the energy sector;
- b) do not delay or distract from the application of the Consumer Data Right to the energy sector; and
- c) do not impose costs or burdensome implementation requirements on industry or market bodies, in light of the risk of duplication of those costs when the Consumer Data Right is applied to the energy sector.

The AEC is concerned that the approach to facilitating data access currently outlined in the HoustonKemp report does not meet the above criteria. We are also concerned that this initiative is one of many occurring across Australia currently. The many different reviews occurring across different jurisdictions create a risk that competing data access schemes will be developed in the energy sector.

The AEC would encourage the Department to focus its efforts on adapting the Customer Data Right as outlined in the Open Banking report to the energy sector. As we noted in our submission to Treasury, the application of that framework has great potential in the energy sector, but should also be subject to a thorough cost benefit assessment. At a time when energy prices are in the spotlight careful effort must be taken to ensure that any costs imposed on market participants is demonstrably outweighed by the consumer benefit.

Any questions about our submission should be addressed by email to Tess Fitzgerald at Tess.Fitzgerald@energycouncil.com.au or by telephone on (03) 9205 3115.

Yours sincerely,

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Australian Energy Council