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Treasury

Submitted via email to: [CDRRules@treasury.gov.au](mailto:CDRRules@treasury.gov.au)

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### **Consumer Data Right – Consultation on Operational Enhancements Design Paper**

AGL Energy Limited (**AGL**) welcomes the opportunity to provide a response to the *Operational Enhancements – Consumer Data Right rules design paper* dated August 2023 (**Consultation Paper**).

AGL is a leading integrated essential service provider, delivering over 4.3 million gas, electricity and telecommunications services to our residential, small and large business and wholesale customers across Australia. We are a market leader in the development of innovative products and services that enable consumers to make informed decisions on how and when to use their energy resources.

AGL has been a consistent supporter of the Consumer Data Right (**CDR**) and its goal to enable consumers to have access to, and control over, their data. AGL welcomes this consultation on operational enhancements to the CDR, with the view to optimising the CDR in the energy sector and continuing to empower consumers to make better and more informed choices.

These submissions set out AGL's view on the proposed general and energy-specific changes in the Consultation Paper. As a general theme, we are supportive of measures that prioritise clarity, benefit consumers and reduce complexity. For certain changes, we encourage Treasury to consider where the CDR regime already adequately addresses the subject of the proposed alteration, or conversely, where an amendment may unintentionally introduce adverse outcomes or unnecessary costs for data holders or consumers.

AGL remains committed to supporting Treasury to get the rules right in a complicated multi-stakeholder environment. This can only be achieved with sufficient consultation and feedback from all stakeholders on the impact of proposed changes, including any potential unintended consequences.

### **Consultation Questions**

This section sets out AGL's responses to specific questions asked in the consultation, excluding items for which AGL has no response. In particular, this response does not address sections 4 to 6.

#### **Secondary Users (section 1)**

##### *Secondary user management service*

AGL supports the introduction of an online secondary user management service. Noting the necessary pre-condition that an individual must have 'account privileges' to act to as a secondary user, this should be achieved by presenting existing authorised representatives to the account holder in the CDR dashboard, rather than allowing account holders to create authorised representatives themselves within the CDR



dashboard. This is an important distinction because the latter approach will have substantial downstream impacts within the solutions that underpin CDR role management and increase the complexity of these solutions significantly.

#### Blocking a particular authorisation and notifications

AGL does not support requiring data holders to enable account holders to block and unblock secondary user data sharing in relation to a particular authorisation. AGL is of the view that current CDR rules adequately equip consumers to view and withdraw authorisations initiated on their behalf. The introduction of functions to support the blocking and unblocking of a particular authorisation will introduce unnecessary complexity throughout the CDR regime with unclear benefits for account holders. AGL suggests that the consumer dashboard and associated notifications should explicitly advise account holders how secondary users may act on their behalf. In particular, users should be advised that, once revoked, a sharing authorisation might be re-initiated, unless secondary user instructions are removed. Empowering CDR consumers with greater understanding of how they can protect their own data is far more effective than the creation of additional layers of complexity in the CDR rules and standards.

AGL notes that the introduction of a block/unblock function is not supported by existing data standards and will require substantial discussion and consultation to work through the inherent complexity of these proposed functions, including upstream and downstream impacts to existing CDR functions.

With respect to the proposed expansion of notifications to include secondary users, AGL is of the opinion that this approach is likely to result in adverse outcomes for CDR consumers. Data holders cannot effectively anticipate the broader circumstances in which an account holder acts counter to their secondary user(s), and we have concerns that this may trigger potential conflict that may be unwelcome for the account holder. Specifically, the introduction of notifications for secondary users incorrectly assumes that account holders, in all such circumstances (sensitive or otherwise), want secondary users to be informed. This is not always the case, and in AGL's view, account holders should be expected to manage this relationship. These concerns also apply to the proposed changes to the CDR dashboard for secondary users.

#### Blocking a particular accredited person

AGL is of the position that the existing rule should be removed for the sake of simplification.

#### Timing of proposed amendments

AGL has invested significant resources to intensively design and build solutions that support existing obligations for secondary users. There is a high likelihood that the proposed changes to the operation or scope of these rules will require substantial revision of these solutions, leading to potential delays to deploying secondary user functionality within the timeframe communicated by AGL<sup>1</sup>.

In the absence of supporting standards that underpin the changes proposed for the CDR Rules, we assume that substantial re-solutioning and re-build will be required. Timeframes for the deployment of secondary

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<sup>1</sup> <https://www.accc.gov.au/public-registers/consumer-data-right-exemptions-register/exemption-for-retailers-in-the-agl-energy-group>



user changes would therefore be, at a minimum, six months following the finalisation of supporting standards.

## **Nominated Representatives (section 2)**

### Appointment process

AGL supports the inclusion of language in the CDR Rules that makes it clear that the nominated representative appointment process should be quick, easy to find, easy to understand and easy to use.

AGL is also supportive of data holders providing an online mechanism for appointing nominated representatives. However, as not all data holders will have the same digital capabilities, this would be best served as a 'SHOULD HAVE' obligation.

### Automatic nominated representative

It is AGL's position that automatic designation of 'account administrators' of a non-individual account will lead to poor outcomes. This language does not translate between the banking sector and the energy sector – for example, an individual empowered to manage an organisation's bank accounts should not be expected to be the same person, or hold the same role, as someone listed as a contact on an energy account.

Elevating pre-existing 'account administrators' to the level of nominated representative by default will produce adverse outcomes, including that:

- (a) energy sector data holders may not have recorded the person's role or level of authority within the organisation and would therefore be unable to determine if they are satisfactorily empowered to act on the organisation's behalf (this is especially true of a broker, for example); and
- (b) given such information is captured for purposes that are unrelated to CDR, incomplete data sets (such as a date of birth), may result in an inability to fully determine eligibility for CDR.

### Visibility of nominated representative activity

AGL believes that the flexibility built into the language of the existing requirements adequately serves an organisation's need for visibility of nominated representative activity. Accordingly, AGL does not accept that data holders should be required to identify the nominated representative who gave an authorisation.

Building further functionality to demarcate authorisations given by the initiating representative is far less important than providing the visibility of the active authorisation itself and provides only minimal value to the organisation given the outcome is the same: organisations are empowered with information about how and where their data is being shared.

AGL does, however, support the proposal that consumer dashboards should include language stating the data holder dashboard does not display consents given to ADRs or CDR representatives.

## **Avoidance of Harm (section 3)**

AGL supports the proposed amendments in relation to expansion of the "avoidance of harm" principle, and does not believe that data sharing will be significantly impacted by the introduction of these protection principles.



### **Authorisations granted by the nominated representatives in the energy sector (section 7)**

Noting AGL's own challenges designing and building support for nominated representatives, AGL supports the reclassification of these functions to 'complex requests' and the associated deferral of obligations for large energy retailers.

### **Trial Products for the energy sector (section 8)**

AGL supports the extension of trial product exemptions to the energy sector. The threshold for defining such trial products must necessarily be sector-specific. In particular, several important distinctions separate energy sector trial products from banking sector trial products:

1. energy products may involve the provision of specialised hardware that is physically integrated into a home or building;
2. products may involve the bundling of third-party services that are presently outside the scope of the CDR;

For the above reasons, industry practice is that trial products do not typically have end dates associated with them. It is AGL's view that energy trial products should not be timebound in the way that banking sector trials are currently described. To do so would effectively eliminate the majority of trials from eligibility, and may have a chilling effect on innovation in the sector. We propose instead that trial product eligibility should be volume-bound, where a specific threshold is set for the number of customers on a particular product – for example, where more than 1000 customers participate, a product may be considered a core product offering.

### **Insight disclosures for the energy sector (section 9)**

Given the importance of this proposal, it is AGL's position that specific and practical use cases for energy sector CDR insights ought to be analysed, rather than providing commentary in the abstract. Furthermore, AGL does not support the establishment of sector-agnostic insight disclosures and believes all such disclosures should be considered within their own context.

AGL is concerned that the language used in the Consultation Paper suggests energy sector data holders maintain "less sensitive" data than in the banking sector. This is inappropriate and may lead to adverse outcomes for CDR consumers. Electricity usage data is protected under the *National Electricity Law*<sup>2</sup> and the *Privacy Act*<sup>3</sup> for good reason. Using existing technology, it is possible to use this information to construct sophisticated and specific models of occupant behaviour that gives granular insights into an individual's daily routines and habits. Any data that can accurately predict when a consumer is home, when they wake up in the morning and what types of appliances they use before going to work is inherently sensitive and should never be shared without the full burden of accreditation protocols in place.

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<sup>2</sup> *National Electricity (South Australia) Act 1996*, Schedule (National Electricity Law).

<sup>3</sup> *Privacy Act 1988* (Cth).



### **Historical Metering Data Liability (section 10)**

AGL supports a proposed rule specifying that a retailer or ADR acting in good faith would not be liable where they make an inadvertent disclosure of metering data within the CDR framework. However, there are further opportunities to prevent poor outcomes for CDR consumers.

Whenever the LCCD (**Last Consumer Change Date**) field is not populated, AEMO's back-stop solution will be triggered, which restricts the available range of historical metering data. Perversely, those who use CDR frequently (for example, to find the cheapest energy retailer) are most likely to trigger this back-stop. This is because the consumer's winning retailer will not populate the LCCD, leading to AEMO further restricting the period of available metering data.

In our view, the only two solutions are:

- (a) requiring the consumer to prove the period of occupancy with their new retailer, (which is a poor outcome for consumers, and effort intensive process for energy retailers); or
- (b) have all retailers proactively populate LCCD so that AEMO's back-stop is rarely utilised.

It is AGL's strong preference that AEMO make available the Blind Update Tool to retailers so that LCCD can be populated.

### **Issues for future consideration**

AGL supports ongoing consultation, in particular around how the rules about corrections under privacy safeguards 11 and 13 should be clarified, and whether associated changes to the data standards could support these corrections to be made effectively and efficiently.

We are happy to discuss further if you have any queries in relation to AGL's response, please contact Andrew Ferris, CDR Manager, at [aferris@agl.com.au](mailto:aferris@agl.com.au).

A handwritten signature in black ink, appearing to read 'Gino Fragapane'.

Yours sincerely,

Gino Fragapane  
Head of Connections and Billing

