

Data sharing arrangements to inform planning and enable future markets consultation paper

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About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are marginalised and facing disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

Energy and Water Justice

Our Energy and Water Justice work improves regulation and policy so all people can access the sustainable, dependable and affordable energy and water they need. We ensure consumer protections improve equity and limit disadvantage and support communities to play a meaningful role in decision-making. We help to accelerate a transition away from fossil fuels that also improves outcomes for people. We work collaboratively with community and consumer groups across the country, and our work receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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Recommendations

Recommendation 1

That data sharing frameworks and arrangements are designed to support key value streams that deliver shared benefits to all consumers and enable desired consumer outcomes, rather than broadly attempting to support every possible use case.

Recommendation 2

That exclusive data-sharing arrangements are prohibited, and consistency and useability across CER datasets is ensured through standards and interoperability requirements, and that an industry-wide framework for safe data access, availability, and quality management is created.

Recommendation 3

That unintended structural advantages held by MSPs are urgently addressed by limiting their discretion to embed and utilise proprietary functionality in meters, mandating regulated third-party access to meter services and data, and restricting or robustly ring-fencing their CER operations from their regulated function as metering and data provider.

Acronyms list

Acronym	Full name
AEMO	Australian Energy Market Operator
CER	Consumer Energy Resources
DCCEEW	Department of Climate Change, Energy, the Environment and Water
DNSP	Distribution Network Service Provider
EWCAP	Energy and Water Consumers' Advocacy Program
MSP	Metering Service Provider
NEM	National Electricity Market
WEM	Wholesale Electricity Market

1. Introduction

The Justice and Equity Centre (JEC) welcomes the opportunity to respond to the Commonwealth Department of Climate Change, Energy, the Environment and Water's (DCCEEW) Data sharing arrangements to inform planning and enable future markets consultation paper (the Paper).

We support the intent of the Paper to identify the capabilities required to effectively integrate consumer energy resources (CER) into the power system and market, determine who is responsible for certain capabilities, and clarify how key capabilities can be improved. The guiding questions – what data is needed to support these capabilities, and how it might best be shared – are broadly appropriate.

However, we strongly encourage the Department to go beyond narrow questions of data access. The focus must expand to encompass ensuring safe, fair and competitively neutral access to the capabilities that data enables, particularly for consumers and authorised third-party providers. Without this, the energy transition risks reinforcing existing inequities and entrenching market power with incumbent and privileged providers.

Our submission focuses on three main issues.

First, we argue that enabling coordinated and flexible management of CER is *the* priority gap to address, and that data sharing arrangements must be designed to unlock key value streams for the energy system as well as individual consumers.

Second, we outline the importance of defining common standards and protocols allowing devices and actors to interact seamlessly, preventing vendor lock-ins and enabling effective consumer choice.

Third, we highlight structural issues in the current regulatory framework which effectively give metering service providers (MSPs) inappropriate control over energy data and functionality through their metering role. We propose urgent reforms to strengthen consumer rights and promote a more competitive market and more effective utilisation of energy data in the consumers' interest.

2. Prioritise enabling effective CER orchestration

Effective orchestration of CER is a critical challenge – for both consumers and the efficient operation of the energy system. Coordinated and active management of CER can unlock significant value through the flexibility services it enables. However, the inconsistency and limitation of current device-level data and the fragmented nature of data sharing arrangements present substantial barriers to realising the full value of CER.

Rather than attempting to enable every conceivable use case for individual consumers or service providers, regulation should focus on unlocking key value streams that deliver the greatest likely benefit to the energy system, as well as individual consumers.

We urge the Department to focus on key desired outcomes enabled by data, rather than simply focussing on freer and more comprehensive data access for its own sake. Consumers don't value data per se, but have an interest in the products, services, and the system outcomes data enables. The Victorian experience with smart meters illustrates that data access is necessary but not sufficient to guarantee consumer benefit. This is especially true when this access depends on independent consumer action or the spontaneous development of services and products reliant on data.

The nascent market for energy services which rely on data may not yet be delivering the value consumers expect. This does not imply the associated data is of limited value, rather that reforms are needed to unlock and direct its potential. The Department should ensure that relevant parties have regulated access to appropriate data and are directed and incentivised to use it in ways that deliver desired outcomes and promote consumer interests.

A priority objective for data sharing arrangements must be to ensure that all consumers – including renters, people with disability, culturally and linguistically diverse communities, and those in embedded networks – benefit from CER integration and more efficient utilisation. Data cannot simply become another means by which market and service creation benefits certain consumers, such as those who own their home and CER assets. This is essential to avoid deepening existing inequities in the energy transition.

Recommendation 1

That data sharing frameworks and arrangements are designed to support key value streams that deliver shared benefits to all consumers and enable desired consumer outcomes, rather than broadly attempting to support every possible use case.

3. Strengthen interoperability through standardisation

Interoperability is a critical foundation through which to improve consumer and system outcomes. We agree that 'all energy systems and markets have strong and critical data underpinnings' without which 'operators cannot effectively balance electricity supply with demand as it is needed'. In this context it is particularly important to define actor-to-device and device-to-device standards through outlining physical performance specifications, communications protocols, and a common information model.

These standardisation efforts are essential to ensure that devices from different manufacturers, suppliers and service providers can interact seamlessly, efficiently, and enduringly. Standardisation and interoperability measures help prevent consumers from being locked into proprietary data-sharing arrangements and enable greater and more effective competition through flexibility in switching between CER service providers, orchestrators, and aggregators.

The Department should work with market bodies and other relevant stakeholders to:

- Prohibit exclusive product use and data-sharing arrangements that restrict consumer choice;

- Ensure CER data sets are accessible and usable across a wide range of consumer devices and service platforms; and
- Promote an industry-wide approach to safe data access, availability, and quality management.

We strongly support calls for a ‘clear energy data management and governance framework, supported by a fit-for-purpose legislative framework’, and agree that this should be treated as a high strategic priority.

Recommendation 2

That exclusive data-sharing arrangements are prohibited, and consistency and useability across CER datasets is ensured through standards and interoperability requirements, and that an industry-wide framework for safe data access, availability, and quality management is created.

4. Ensure fair competition in energy data

Developing fit-for-purpose data sharing arrangements is a vital step toward fostering effective competition that works for consumers and enables the new services which deliver desired system and consumer outcomes. However, these arrangements alone are insufficient to address broader competition concerns related to energy data.

As the Paper rightly states, “the challenge facing the NEM and WEM – and power systems the world over – is to integrate significant volumes of behind-the-meter devices, or CER”. Central to this challenge is the consumer’s right to effectively access and control their energy data. Consumers pay for their electricity meters, and the data created reflects their usage – it is their data.

The current regulatory framework – including currently anticipated rule changes – does not recognise this right. Instead, it effectively grants MSPs unfettered discretion over the metering platform, enabling unparalleled visibility of metering data and exclusive control over metering functionality, sometimes in a manner contrary to the consumer interest. While currently proposed reforms may marginally improve data access for defined entities¹, they do not address these critical issues and do not fundamentally challenge the developing role of MSPs as unregulated gatekeepers of consumer energy resources and data.

If “data, and data sharing, is the fuel for the digital transformation” then MSPs should not be allowed to operate as an unregulated monopoly.

The current arrangement was never explicitly intended and does not promote the interest of consumers. MSPs gain a material competitive advantage through their exclusive discretion to embed and utilise functionality in meters and control CER devices connected to them. Their

¹ These include AEMO, DNSPs, and retailers.

actions can create both physical and financial barriers to effective competition and the development of services delivering the best outcomes for consumers.

Moreover, these circumstances mean MSPs benefit from preferential, lower-cost access to data and its associated functionality due to their privileged position and control over the consumer-meter relationship. Again, the intent behind creating MSP roles was never to establish an unfettered platform for commercial advantage, but this has emerged under the current framework and no currently proposed reforms intend to address it.

As we have recommended elsewhere², these issues must be addressed as a matter of urgency. Further delays risk entrenching structures and business-models which suppress competition from third-party providers and undermine effective data use and service development. These issues could be addressed through:

- Limiting or regulating the functionality MSPs are permitted to build into meters and how this – and the data created – can be used, and/or
- Ensuring regulated third-party access to meter functionality and data.

Defined data which enables efficient system utilisation and operation should be made available free of additional charge to designated market participants such as DNSPs, retailers, and AEMO for clearly defined purposes. Negotiating access to this data with MSPs is wholly inappropriate, ineffective and inefficient, as each metering point is a non-substitutable asset over which MSPs hold an effective monopoly.

For all other data outside these defined system purposes consumers should retain full discretion over how it is accessed, used, and monetised. They should have free and ready access to their data and be empowered to control its use through safe and protected platforms.

Recommendation 3

That unintended structural advantages held by MSPs are urgently addressed by limiting their discretion to embed and utilise proprietary functionality in meters, mandating regulated third-party access to meter services and data, and restricting or robustly ring-fencing their CER operations from their regulated function as metering and data provider.

We welcome the opportunity to meet with the DCCEEW project team and other stakeholders to discuss these issues in more depth. Please contact Jan Kucic-Riker at jkucicriker@jec.org.au regarding any further inquiries.

5. Further resources

The following recent submissions and reports provide further detail on a range of issues relevant to data sharing arrangements in the NEM.

- [Justice and Equity Centre submission to Real-time data for consumers consultation paper](#)

² See [JEC submission to AEMC Real-time data for consumers directions paper](#), pp. 13-15

- [Justice and Equity Centre submission to Real-time data for consumers directions paper](#)
- [Justice and Equity Centre submission to Integrated distribution system planning consultation paper](#)
- [Public Interest Advocacy Centre submission to Review of the regulatory framework for metering services](#)