10 October 2024

Consultation: Exploring a consumer data right for the electricity sector

Energy Use Policy team
Ministry of Business, Innovation and Employment
15 Stout Street
PO Box 1473
Wellington 6140
Submitted by email to energyuse@mbie.govt.nz

To whom it may concern,

Electricity Networks Aotearoa (ENA) appreciates the opportunity to make a submission to the discussion paper on *Exploring a consumer data right for the electricity sector* (the discussion paper).

ENA represents the 27 electricity distribution businesses (EDBs) in New Zealand (see Appendix A) which provide local and regional electricity networks. EDBs employ 10,000 people, deliver energy to more than two million homes and businesses and have spent or invested $8 billion in the last five years.

ENA and its members are supportive of efforts to allow consumers to be more engaged and empowered regarding their choices in the electricity market, and therefore support the introduction of a Consumer Data Right (CDR) into the sector. We expect that this will drive greater innovation and competitive tension into the retail electricity sector for the long-term benefit of consumers. We have therefore engaged with the consultation questions with a view to making the enactment of a CDR in the electricity sector as effective and efficient as possible.

ENA does however have some concerns that the new obligations and restrictions around data in both the Customer and Product Data Bill and the regulations contemplated by this consultation may interfere with both long-standing and emerging industry data sharing arrangements. It may be that, by designating industry parties and data within the context of a CDR regime, otherwise routine data exchange/access arrangements may inadvertently fall under the scope (and therefore requirements) of that regime.

These changes could undermine the ability of EDBs to receive consumption data (as per their individual Default Distribution Agreements (DDAs) with retailers) for the purposes of billing for electricity network services. Clearly this is not the Government's intent with this suite of legislation, but as these arrangements are absolutely fundamental to the smooth operation of the electricity sector, we urge MBIE to be especially careful that such unintended consequences do not arise.

Another potential unintended consequence to greater restrictions around data is that EDB agreements with metering equipment providers (MEPs) for the provision of consumption data could also be affected. After many years of ineffective attempts to secure access to smart meter data for EDBs, successful data access agreements are beginning to emerge between EDBs, and MEPs and others are being negotiated on an ongoing basis. It would be detrimental to these positive sector developments if they were undermined by either the Customer and Product Data Bill or the regulations being considered here. Again, we do not believe this is the intention of the Government, but we want to flag this significant risk to MBIE so that due caution can be exercised in your ongoing work on these regulations.

ENA understands that this consultation is a first step MBIE are taking before drafting the sector-specific regulations proper, which will be consulted on in their own right. **ENA and its members would welcome further opportunities to engage with MBIE (via industry workshops or fora – which ENA is happy to arrange and facilitate) as it considers the responses to this consultation and the further design and drafting of the regulations.**

Do not hesitate to get in touch with ENA if you'd like to discuss any of this further engagement or any of the points raised in our submission. Please contact Sophie Tulley Privacy of natural persons in the first instance.

Yours sincerely,

Sophie Tulley
Policy & Innovation Advisor
Electricity Networks Aotearoa

Responses to questions

Status quo and problem definition	
1.	What are your experiences of accessing consumer and product data for electricity under the status quo?
	Even as industry participants EDBs routinely find access to electricity consumption data (via smart meters) and retailer tariff information challenging to obtain. Given these difficulties for EDBs, it is likely that lay consumers find it even more difficult to access this information.
2.	Do you agree with our summation of the status quo and problem definition? Is anything missing or incorrect in your view? And please provide any evidence you may have to support your views.
	ENA agrees the summation is accurate.
3.	Do you think that regulatory options are necessary to unlock better access to customer and product data?
	ENA's members agree that regulation is necessary to improving access to customer and product data. The Electricity Authority (EA) has made efforts over the years to make access to consumption data quicker and easier for customers and their agents. However, this process does not always work smoothly in all cases. Therefore, it is necessary to pursue the regulatory option because the EA (as the sector-specific regulator) has been unable to achieve a satisfactory outcome via the Electricity Industry Participation Code 2010 (the Code). As noted in the discussion paper, some of the potential benefits of a CDR would not materialise if consumers' access to data were improved solely through enhanced obligations on participants regulated by the Code.[1] The accreditation processes for requestors, and registration of customer and product data system participants, that are contemplated by the Customer and Product Data Bill would greatly benefit consumers and EDBs. ENA encourages the creation of a clear, standard process for accreditation. A transparent accreditation process will help to build trust between sector participants through clarifying the roles and responsibilities of all parties involved in the sharing of customer and product data.
4.	What do you consider to be the likely outcomes for access to customer and product data in the absence of a CDR for electricity?
	As noted above, some steps have been taken by the EA to improve access to customer and product data such as imposing Code obligations on retailers to make consumption data readily available to consumers and their agents. However, these measures have been largely ineffective in driving the data accessibility that the sector requires, due to issues that MBIE have highlighted in the discussion paper. While it is possible these existing measures could be

[1] Ministry of Business, Innovation and Employment. (2024, August). *Exploring a consumer data right for the electricity sector* (p. 18, para. 42).

	strengthened or improved, we think the introduction of a CDR for electricity (subject to a cost-benefit analysis) is the most effective and efficient way to improve outcomes for consumers. Without a CDR, access to customer and product data may remain inconsistent across the sector, with each entity (retailers, EDBs, third parties) maintaining separate systems and protocols for data sharing. Furthermore, the absence of a CDR would limit opportunities for innovation in service offerings, including personalised tariffs, demand response services, or energy efficiency solutions that require comprehensive data access. The adoption of innovative technologies, crucial for the electricity sector's step change and digital transformation needed to electrify New Zealand, often relies on this data. Without it, consumers will continue to have limited control over their energy information, restricting their ability to make informed decisions about energy usage, switching providers, or participating in emerging services like solar power trading. Ultimately, not implementing a CDR would, most likely, perpetuate the status quo of limited competition in data-driven energy services, as larger players with better access to data would retain competitive advantages over smaller or new market entrants.
What a consumer data right for electricity could look like	
5.	Who else may be impacted by a designation of the electricity sector? Should particular groups or classes of entities be explicitly included or excluded from a potential designation?
	ENA is not aware of any groups or entities that would be impacted by the designation of the electricity sector that have not already been identified by MBIE.
6.	What customer data do you think is the most important? And what else (now or in the future) would be important? And why? What are the benefits from consumers having ready access to this data?
	Access to smart meter data is key to unleashing the rapid transformation of the electricity sector that is needed for New Zealand to meet our 2050 emissions targets. This data is important now and will become increasingly vital in the future as more consumers want to actively participate in the electricity market. It would be beneficial for customers to designate consumption data, buy-back tariffs, solar generation, power quality data, and potentially in the future DER data. Seamless access to granular consumption data for consumers will be fundamental to the effective implementation of a CDR for electricity. Looking to the future, designating buy-back tariff data benefits customers by enabling informed decision-making and providing financial transparency around compensation for excess energy fed into the network, thereby improving the ability of consumers to assess and take up distributed generation (e.g. solar PV) and battery technologies. Customers are no longer just passive electricity users and increased transparency may enhance customer trust in the energy system, encouraging more active engagement in the energy market. Customers can take on the role of electricity storage providers, energy producers, and energy aggregators. Solar generation and DER data will have similar benefits for customers alongside improving customer understanding of household energy use.

7.	If access to customer data is designated for all consumers (residential, small business, large business and large consumers) what are the potential benefits, risks or costs associated with each type of customer? And why?
	Residential Consumers: • **Benefits**: Better access to personalised energy products and better control over electricity usage and costs (through home energy management systems). • **Risks**: Privacy concerns and the potential for misuse of personal data. As consumers are more actively participating in the energy market, they are perhaps more vulnerable to cyber-attacks which are a risk not only to the individual consumer but also overall network security. **Small Businesses**: • **Benefits**: Tailored tariffs and insights into energy efficiency which would potentially be more important for small businesses than for large businesses. • **Risks**: Data security, especially for sensitive business information. **Large Businesses & Consumers**: • **Benefits**: Detailed data for optimising energy use and demand response. • **Risks**: Data security, especially for sensitive business information.
8.	What product data do you think is the most important? And what else (now or in the future) could be important? And why? What are the benefits from this data?
	Access to retailer tariff data, in a consistent and comparable machine-readable format, will be the most important product data for improving outcomes for consumer engagement in the electricity retail market. As noted above, product data such as residential electricity export tariffs, demand response offerings, will become increasingly important to an increasing number of consumers as the electricity sector modernises. Electricity distribution tariff data, as a significant component of retail tariffs, should also be made available via the CDR regime. ENA suggests that the provision of this data can best be made via electricity retailers (who must hold this product data in any case), given they most likely will be required to develop systems to provide retail tariff product data as designated data holders.
9.	Are there any other issues with product data we should be aware of? And why? Please provide examples.
	MBIE appears to have identified all the relevant issues with product data that ENA is aware of. In particular, non-financial aspects of retailer tariff offers (e.g. televisions, 'free' consumption periods, etc) will presumably need to be excluded from the retailer tariff data but nevertheless somehow acknowledged in the consumer decision-making process around retailer selection.

10.	What factors should be considered when identifying who the best data holder is under a potential CDR regime? And how might contracting agreements affect the application of a CDR in regard to data holders? (e.g., contracts between metering equipment providers and retailers to share data).

	The following factors may be important to consider when identifying the best data holder under a potential CDR regime: 1. **Data Proximity**: The entity closest to the source of data (such as metering equipment providers or retailers) should hold the data for accuracy and real-time access. 2. **Regulatory & Operational Capacity**: The data holder must have the infrastructure to securely store and manage large volumes of data while ensuring compliance with privacy laws. 3. **Security & Privacy Protocols**: Robustness of cybersecurity measures to protect consumer data. Many EDBs have some limited access to smart meter data via electricity retailers through their DDAs as set out in the Code. Some EDBs have also struck commercial agreements with metering equipment providers (MEPs) for more comprehensive and ongoing access to smart meter data for network management purposes. ENA is concerned that, if improperly drafted, the CDR and/or sector-specific regulations made under it might inadvertently interfere with existing EDB rights to consumption data via their DDAs. Likewise, there might also be unintended effects on existing and potential commercial agreements between EDBs and MEPs for network-wide access to smart meter consumption, power quality data, etc. ENA strongly encourages MBIE to exercise care in the design of regulations under the CDR to ensure that it does not interfere with existing EDB data access rights and the potential for EDBs to enter into agreements with MEPs for additional data access. Existing access to customer and consumption data under the DDA is vital to EDBs for business-as-usual purposes and for planning of flexibility services, asset replacement and renewal, and system growth. Regulation that inadvertently impose a requirement for consumer consent to access this data would be unworkable for EDBs and the wider sector. Therefore, controls and obligations around the access to and use of data designated under the CDR framework should allow for these existing arrangements – which are clearly not intended to be in the scope of the CDR regime – to continue.
11.	Do you agree with our initial framework for how to identify/designate data holders? Why or why not?
	ENA supports the creation of a clear, structured approach that ensures transparency and accountability, especially where multiple parties (e.g., retailers, metering equipment providers) are involved. It is also important that the framework accounts for the operational complexity and costs associated with managing, storing, and sharing consumer data. It would be advantageous to explicitly identify electricity retailers and metering providers as 'data holders.' These parties already hold the majority of consumer and product data that consumers and accredited requestors would likely wish to access. Retailers also already have

	an established contractual relationship with consumers, unlike EDBs, who may only rarely interact with end customers.
12.	What actions could be designated for electricity under a CDR? And why? What are the potential benefits from these? Please provide examples.
	The most obvious action to designate would be the retailer switching process for consumers, however the status quo arrangement for this action already appears to work quite effectively. Thought should be given as to how any actions designated under a CDR can dovetail well with existing processes (such as retailer switching) which are already working satisfactorily outside of a CDR regime.
Potential benefits and risks	
13.	What are your thoughts on the potential impacts of a designation on the interests of consumers? Are there any specific benefits that are likely to be enabled with designation? What is the likely scale of the benefits, and over what timeframe would they occur?
	Accessing data under the current system is expensive due to the fragmented nature of data ownership. Data is held by various parties—retailers, metering service providers, and EDBs—each with their own systems and contracts. These complexities require costly agreements, custom integrations, and proprietary formats, increasing the costs of obtaining and using data for both EDBs and consumers. **1. Potential Benefits of a CDR Designation:** **1.1. Consumer Empowerment**: A CDR designation would give consumers control over their own data, making it easier for them to access and share their information with third parties. This could lead to improved service choices, better switching experiences, and more tailored energy solutions. **1.2. Innovation and Market Competition**: Open access to data could encourage traditional and third-party vendors to develop more competitive, data-driven products (e.g., dynamic pricing, real-time consumption insights, or demand response services). With data more accessible, businesses could design products that better meet consumer needs, driving efficiency and sustainability in the electricity sector. **2. Scale of Benefits:** **2.1 Immediate Impact**: In the short term, the most immediate benefits would likely be experienced by residential and small business consumers, who would gain direct access to their energy data. **2.2 Longer-Term Gains**: Over time, as more third-party providers enter the market and consumers become more engaged with their data, larger-scale benefits would emerge, such as greater energy efficiency, better demand management, and improved integration of DER (like solar panels and battery storage). **2.3 Network Efficiency**: Improved access to consumer data could also better enhance EDBs to optimise network operations, reducing peak demand and improving investment planning for future infrastructure upgrades. **3. Risks and Concerns:**

	3.1 Cost of Implementation: While the potential benefits are significant, there are risks that the costs of implementing CDR will also be significant. Building new systems to securely manage and share data could require substantial investment. These costs will be of particular concern to less resourced EDBs. It will be important for government to work with industry to create implementation strategies that can work for the different data storage and sharing systems that already exist in industry. **3.2 Data Privacy and Security**: There is a need for robust data privacy and security frameworks. As more entities gain access to consumer data, the risk of data breaches or misuse increases, potentially undermining consumer trust.
14.	Do you have any comments on the specific interests of different types of consumers, such as, residential, business, industrial, rural, Māori, or other groups of consumers?
	It must be clearly communicated to all consumers how their personal data will be used, shared, and protected, as seen with smart meter implementations that offer insights into usage patterns. Engaging diverse stakeholders, including low-income households, can help identify unique concerns and consistently improve the consenting process. Special considerations for vulnerable consumers are vital to ensuring equitable participation in the system.
15.	What are your views on the nature and scale of costs/benefits? Who would these costs/benefits apply to and when?
	ENA has no comment to make.
16.	Would you be able to quantify potential additional costs to your organisation associated with designation under the Bill?
	ENA has no comment to make.
17.	Do you have any comments on the benefits and risks to security, privacy, confidentiality, or other sensitivity or customer data and product data?
	ENA has no comment to make.
18.	Are there any risks from the designation to intellectual property rights in relation to customer data or product data?
	ENA has no comment to make.
Other aspects of a potential designation	
19.	What do you consider to be important if designing an accreditation regime for the sector?
	EDBs consider that technical competence is essential for handling real-time electricity data. Moreover, the regime must be consistent with other existing legislation, such as the Privacy Act and Commerce Act, to ensure legal cohesion. EDBs would also stress the need for interoperability across the sector, minimising costs and administrative burdens while maintaining data-sharing efficiency.

20.	What are your views on fees for requests for customer electricity data under the Bill? If fees are charged, what limits or restrictions should be placed on fees? Do you have any comments on the costs and benefits of the various options?
	Fees for requests for data should be kept low or regulated, as third parties already face high costs for data access under current systems. Charging excessive fees could further burden requestors and discourage innovation in the sector. ENA suggests fees be capped and heavily based on the actual cost of data provision.
21.	Are there any particular considerations for electricity that should be taken into account for a consumer consenting process?
	ENA has no comment to make.
22.	Do you think that standards should be led by industry, by government or co-led? What is the role of industry in developing standards? And why?
	ENA sees significant benefits in having the development of standards co-led by government and industry. For regulations to be effective they must be robust, and principle based and without industry collaboration there is the risk that regulations are unnecessarily difficult or costly to put into practice. It may be sensible to delegate the standards development task to EA who already operates data standards and formats working groups. ENA also encourages consideration of how existing industry data services can be leveraged to deliver the CDR outcomes in a cost-efficient and effective way. There is potentially scope to use the existing electricity registry (operated by the Electricity Authority) as a universal portal for CDR-mandated data. This could well be more economic than requiring every data holder to develop their own bespoke electronic system to comply with CDR requirements.
23.	How do you believe a CDR and the Code could/could not work together?
	Technical standards and operational guidelines could be managed through amendments to the Code; however, consumer protection and compliance will likely need to be addressed in legislation. Legislation should provide a legal framework that addresses rights and obligations, enforcement mechanisms and penalties for non-compliance. Without this solid foundation, it will be difficult to successfully implement a CDR. Interaction between a CDR and the Code should be made explicit so decision makers have clarity on the different roles and responsibilities in the system. The pace of technological advancements in the sector is rapid, and there is a risk that overly prescriptive regulation will no longer be fit for purpose if it cannot adapt to a changing digital environment. A regular statutory review cycle may be needed to ensure that legislation and regulations remain effective.
General Comments:	
ENA has no further comments to make.	

Appendix A: ENA Members

Electricity Networks Aotearoa makes this submission along with the support of its members, listed below.

Alpine Energy

Aurora Energy

Buller Electricity

Centralines

Counties Energy

Electra

EA Networks

Firstlight Network

Horizon Energy Distribution

MainPower NZ

Marlborough Lines

Nelson Electricity

Network Tasman

Network Waitaki

Northpower

Orion New Zealand

Powerco

PowerNet

Scanpower

The Lines Company

Top Energy

Unison Networks

Vector

Waipa Networks

WEL Networks

Wellington Electricity Lines

Westpower