

# IMPACT & IMPLEMENTATION REPORT (IIR)

## Summary Section

<b>Issue Number</b>	IN006/18W		
<b>Impacted Jurisdiction(s)</b>	Western Australia (WA)		
<b>Proponent</b>	Joe Castellano	<b>Company</b>	Origin Energy
<b>Affected Gas Market(s)</b>	<ul style="list-style-type: none"> <li>Retail</li> </ul>	<b>Consultation process (Ordinary or Expedited)</b>	Ordinary
<b>Industry Consultative forum(s) used</b>	GRCF	<b>Date Industry Consultative forum(s) consultation concluded</b>	Monday, 28 October 2019
<b>Short Description of change(s)</b>	Remove the requirement to delete information around explicit informed consent (EIC)		
<b>Procedure(s) or Documentation impacted</b>	Retail Market Procedures (RMP WA)		
<b>Summary of the change(s)</b>	Amend RMP WA clauses 55A(3), 72(4) and 166A(3) to remove the requirement on a Retailer to delete all copies of the customer's EIC when it no longer applies.		
<b>IIR Prepared By</b>	Nandu Datar	<b>Approved By</b>	Michelle Norris
<b>Date IIR published</b>	11 November 2019	<b>Date Consultation under 135EE or 135EF concludes</b>	9 December 2019
<b>Email Address for Responses</b>	grcf@aemo.com.au		
<b>Other key contact information</b>	NA		



## IMPACT & IMPLEMENTATION REPORT – DETAILED REPORT SECTION

### CRITICAL EXAMINATION OF PROPOSAL

#### 1. DESCRIPTION OF ISSUE

Purpose:

The purpose of this IIR is to remove the requirement to delete information relating to explicit informed consent (EIC) from clauses 55A(3), 72(4) and 166A(3) of the Retail Market Procedures WA (RMP WA).

Issue:

Clauses 55A(3), 72(4) and 166A(3) establish a requirement on a Retailer 'to the extent reasonably practicable' to delete information in a retailer's system relating to a customer's account when their EIC no longer applies.

The process is not reasonably practical as Retailer IT systems are built to maintain data integrity and archive out of date / closed account data rather than delete the information. Deleting the information is likely to have unintended consequences and Retailers may be inadvertently breaching the provision despite best endeavours.

More importantly, if the data were to be deleted, then the Retailer would have no records to provide when required to do so, such as in the case of a dispute, in Ombudsman cases, or in the annual EIC audit. This lack of data would make such matters difficult to resolve and, in turn, potentially mean the Retailer's breaching other record retention requirements.

#### 2. REFERENCE DOCUMENTATION

RMP WA

#### 3. OVERVIEW OF CHANGES

The proposed change involved an amendment to RMP WA clauses 55A(3), 72(4) and 166A(3) to remove the requirement on a Retailer to delete all copies of the customer's EIC when it no longer applies.

A marked-up version of the Procedure change is provided in Attachment A.

#### 4. LIKELY IMPLEMENTATION EFFECTS AND REQUIREMENTS

Retailers may need to amend their processes and systems to not remove the record of customer's EIC when the EIC no longer applies.

#### 5. OVERALL COST AND BENEFITS

Retailers may incur a small cost to amend their processes or systems.

By removing the requirement to delete information provided by both AEMO and the Network Operator, Retailers can manage investigations and escalations more efficiently due to the availability of complete customer records. This change will also enable Retailers to meet their obligations under clause 350 of the RMP WA which outlines the requirement to undertake an annual EIC audit.

#### 6. MAGNITUDE OF THE CHANGES

The proposed changes may have minor impacts on Retailers' internal processes and systems. There will be no impact on AEMO or the Network Operator.



AEMO considers the order of magnitude of this change is 'non-substantial'.

## 7. AEMO'S PRELIMINARY ASSESSMENT OF THE PROPOSAL'S COMPLIANCE WITH THE CLAUSE 378 OF THE RMP

<p>Ensure that the retail gas market operates and is governed in a manner that is,</p> <ul style="list-style-type: none"> <li>(i) open and competitive;</li> <li>(ii) efficient; and</li> <li>(iii) fair to participants and their customers</li> </ul>	<p>AEMO's view is that the proposed change will continue to promote competition, is not unreasonably costly to implement and doesn't disadvantage participants or their customers.</p>
<p>Ensure compliance with all applicable laws</p>	<p>AEMO's view is that the proposed changes are consistent with the applicable laws</p>
<p>Ensure effective consultation occurs and gives stakeholder's opportunities to provide feedback of the proposed changes</p>	<p>AEMO's view is that the stakeholders have already provided feedback to the PCR and are invited to provide additional feedback as part of this round of consultation</p>

## 8. CONSULTATION FORUM OUTCOMES

On 14 October 2019 AEMO published on its website a PCR that recommended minor documentation changes as described in Attachment A. Registered participants and interested stakeholders were invited to make submissions which closed on 28 October 2019.

AEMO received submissions from Alinta and AGL supporting the proposal. The submissions did not propose further amendments. Refer to Attachment B for the Participant submissions and AEMO's responses to feedback.

There were no dissenting views in this round of consultation.

## 9. AUTHORISATION REVIEW

The Australian Competition and Consumer Commission (ACCC) granted Authorisations to REMCo to operate Chapter 5 (Allocation, Reconciliation and Swing) and Chapter 6 (Compliance and Interpretation) of the RMPs and associated ancillary deeds. The ACCC approved variations to the Authorisations to enable REMCo to transfer administration to AEMO.

Authorisation is a process where the ACCC may grant protection from legal action for anti-competitive conduct that might otherwise breach the Competition and Consumer Act 2010 (the CCA) where there is an offsetting public benefit from the conduct.

Changes to the RMP Chapters and ancillary deeds covered by the Authorisations must be assessed to determine whether the change impacts the Authorisation.

Because this proposal requires no changes to any of the clauses in Chapters 5 and 6 of the RMP or ancillary deeds covered by the Authorisations, a review of the ACCC Authorisations is not required.



## **IMPACT & IMPLEMENTATION REPORT – RECOMMENDATION(S)**

### **10. SHOULD THE PROPOSED PROCEDURES BE MADE?**

AEMO recommends that the proposed changes to the RMP WA as described in this IIR should be made.

### **11. PROPOSED TIMELINES**

Subject to all necessary approvals, AEMO proposes the following timeframe.

- Issue IIR 11 November 2019.
- Submission on IIR close 9 December 2019.
- AEMO decision on whether to proceed with Economic Regulation Authority (ERA) submission by middle of January 2020.

If AEMO decides to proceed with an ERA submission for IN006/18W, AEMO will align it with the next ERA submission in the interest of efficiency.



## ATTACHMENT A – DOCUMENTATION CHANGES (SEE SECTION 3)

### RMP WA

Blue represents additions Red and strikeout represents deletions – Marked up changes.

#### 55A. Explicit informed consent required

- (1) Before lodging a request with AEMO for *historical AEMO standing data* for a *delivery point* that relates to a period for which the *user* was not the *current user*, a *user* must obtain the *customer's explicit informed consent* to the receipt by the *user* of the requested data.

{Note: The *user* should ensure that the *customer's* consent extends to all actions the *user* may need to undertake to complete the request for the *historical AEMO standing data*.}

- (2) If at any time before AEMO has provided information to a *user* under clause 57(2), a *customer's explicit informed consent* under clause 55A(1) ceases to apply (for example because it is withdrawn), then the *user* must withdraw the request to the extent that the request relied upon the *customer's explicit informed consent*.
- (3) If at any time after AEMO has provided information to a *user* under clause 57(2), a *customer's explicit informed consent* under clause 55A(1) ceases to apply (for example because it is withdrawn), then the *user* must not use the information for any purpose other than purposes required by these procedures or required by law ~~and must to the extent reasonably practicable delete all copies of the information.~~

#### 72. Explicit informed consent required

- (1) Before lodging a *MIRN discovery request* with a *network operator*, a *user* must obtain the *customer's explicit informed consent* to the receipt by the *user* of the *MIRN standing data* that relates to the *customer's delivery point*.

{Note: The *user* should ensure that the *customer's* consent extends to all actions the *user* may need to undertake to complete the *MIRN* discovery process, for example, subsequent lodgements if the first *MIRN discovery request* is rejected, liaison with the *network operator* under clause 76 and the subsequent report that the *network operator* is required to provide AEMO under clause 73(1).}

- (2) By lodging a *MIRN discovery request* with a *network operator*, the *user* represents and warrants to the *network operator* that the *user* has complied with clause 72(1).  
  
{Note: Under clause 376A(2), a breach of this warranty will expose the *user* to liability for more than just direct damage.}
- (3) A *user* makes the warranty in clause 72(2) anew on each day that the *MIRN discovery request* is open.
- (4) If at any time after the *network operator* has provided information to a *user* under clause 75, a *customer's explicit informed consent* under clause 72(1) ceases to apply (for example because it is withdrawn), then the *user* must not use the information for any purpose other than purposes required by these procedures or required by law ~~and must to the extent reasonably practicable delete all copies of the information.~~
- (5) This clause 72 does not apply where the *user* is a *self-contracting user*.



- (6) To avoid doubt, a *user* does not require the *customer's explicit informed consent* for receipt of the information referred to in clause 75(2)(b)(ii).
- (7) To avoid doubt, a *current user* for a *delivery point* does not require the *customer's explicit informed consent* for receipt of the *MIRN standing data* for the *delivery point*.

166A. Explicit informed consent required

- (1) Before lodging a request with a network operator for historical metering data or historical meter reading data for a delivery point that relates to a period for which the user was not the current user, a user must obtain the customer's explicit informed consent to the receipt by the user of the requested data.

{Note: The user should ensure that the customer's consent extends to all actions the user may need to undertake to complete the request for the historical metering data or historical meter reading data.}

- (2) If at any time before the network operator has provided information to a user under clause 167(4), a customer's explicit informed consent under clause 166A(1) ceases to apply (for example because it is withdrawn), then the user must withdraw the request to the extent that the request relied upon the customer's explicit informed consent.
- (3) If at any time after the network operator has provided information to a user under clause 167(4), a customer's explicit informed consent under clause 166A(1) ceases to apply (for example because it is withdrawn), then the user must not use the information for any purpose other than purposes required by these procedures or required by law ~~and must to the extent reasonably practicable delete all copies of the information.~~

## ATTACHMENT B – SUBMISSIONS RECEIVED FOR PROCEDURE CHANGE REQUEST IN006/18W

Stakeholder	Clause/Section ref.	Issue/Comment	Proposed Text <del>Red-Strikeout</del> means Delete and <u>Blue Underline</u> means Insert	AEMO Response
Alinta	General	Alinta Energy supports this PCR and does not have any further comments.		AEMO acknowledges Alinta's support.
AGL	55A	AGL supports the proposed change and notes that it is appropriate in order for participants to be able to respond to customer complaints or audit requests.		AEMO acknowledges AGL's support.
AGL	72	AGL supports the proposed change and notes that it is appropriate in order for participants to be able to respond to customer complaints or audit requests.		AEMO acknowledges AGL's support.
AGL	166A	AGL supports the proposed change and notes that it is appropriate in order for participants to be able to respond to customer complaints or audit requests.		AEMO acknowledges AGL's support.