

Response to ESC Draft Report May 2012 – Smart Meters Privacy Impact Assessment

Lockstep Recommendations	ESC Recommendation:	CitiPower/Powercor Response
<p>Recommendation 1</p> <p>All metering data from or about residential meters should be handled throughout the Advanced Metering Infrastructure (AMI) system in accordance with the National Privacy Principles (NPPs), in order to safeguard it against potential abuse, better control future secondary usage by unregistered third party participants, and to more clearly demonstrate to customers and the public that the industry is committed to privacy.</p>	<p>Recommendation 1</p> <p>Retailers and Distributors should be required to conduct an independent audit of their compliance with NPPs before the roll out of smart meters is completed or as soon as possible thereafter. The audit should follow principles laid down by the Office of the Australian Privacy Commissioner and should include:</p> <ul style="list-style-type: none"> • Security systems (including data storage and quarantining, online portals) • Staff training • Staff access to systems and information • The systems and processes of third party providers contracted by Retailers and Distributors, where customer metering data is accessed or stored by these. <p>In the short term all industry participants should be audited, and then, as compliance is assured, audits should be limited to those participants who generate complaints.</p> <p>Audit results should be published in their annual report/on the company website and provided to the Australian Energy Regulator through regulatory performance or compliance reporting.</p> <p>To promote industry readiness and consumer confidence, Retailers and Distributors should also:</p> <ul style="list-style-type: none"> • Conduct induction and on-going training for their staff in Privacy principles, and • Satisfy themselves as to the scope, completeness and regularity of the training 	<p>In principle, CitiPower/Powercor does not object to ESC's recommendation in relation to the independent audit.</p> <p>However, CitiPower/Powercor objects to the audit results being required to be published in their annual report or on the company website.</p> <p>In relation to ESC's comments about promoting consumer confidence, CitiPower/Powercor has systems in place to restrict access to business systems only to those who need access in order to perform their operational duties. In addition, the Board Audit Committee provides oversight of compliance with these policies.</p> <p>All new employees receive privacy training as part of our formal induction program. In addition, privacy awareness training is available to all CitiPower/Powercor staff via online training modules.</p>

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<p>Recommendation 2</p> <p>Privacy Policies of Distribution Businesses (DBs) and Retail Businesses (RBs) should be reviewed and updated to describe each organisation's commitment to the NPPs, including explanations of why smart metering data is collected, how it is used, under what circumstances it is disclosed and the range of regulatory and operational safeguards that protect it.</p>	<p>provided by third party providers to their staff, as part of initial and ongoing contractual arrangements with third party providers engaged by them.</p> <ul style="list-style-type: none"> • Ensure that they can identify and react to systemic non-compliance. <p>Recommendation 2</p> <p>Industry should develop a common layered Privacy Notice that can be used as the basis for all organisations involved in AMI; and consider developing an industry-wide Privacy Policy (perhaps as an Industry Code to be approved by the Privacy Commissioner). The Notice, and the Policy or Code should include:</p> <ul style="list-style-type: none"> • Plain English wording and provision for customers of non-English speaking background • An agreed definition and explanation of secondary uses of personal information (within the meaning of section 2.1 of the NPPs) developed by the National Smart Meter Program in conjunction with Industry. • A list of examples of secondary uses according to the current practice of each business, and provision to expand as new uses are introduced. • An explanation of why smart metering data is collected, how it is used, under what circumstances it is disclosed, and the range of regulatory and operational safeguards that protect it. • Contact details for the business, the OAIC and EWOV or its equivalent, to facilitate complaint handling. <p>All Privacy Codes should be easy to locate on</p>	<p>In principle, CitiPower/Powercor does not object to ESC's recommendation.</p>

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<p>Recommendation 3</p> <p>Even though details of how third party services and Home Area Networks (HANs) will operate remain sketchy, it would be appropriate at this stage for RBs' and DBs' Privacy Policies to anticipate the sharing of data beyond their businesses and circumscribe access to metering data. Note that this action should satisfy the ESC's call for "privacy principles" to be developed before In-Home Displays (IHDs) are deployed.</p>	<p>Industry websites.</p> <p>Third Party providers that voluntarily opt in to the NPPs would be subject to the requirements of the Privacy Act.</p> <p>Recommendation 3</p> <p>The Commission recommends that consumers who seek it be given access to their smart metering data to the extent this is possible under existing National Electricity Rules.</p>	<p>In principle, CitiPower/Powercor does not object to ESC's recommendation.</p>
<p>Recommendation 4</p> <p>The industry should adopt and promote an Opt-In policy of not putting metering data to any secondary purposes without express customer consent.</p> <p>For the avoidance of doubt, and to maximise consumers' sense of control, such secondary uses should include even those that seem reasonably related to the primary purpose for collection, such as the provision of efficiency advice. The industry should ensure that consent to secondary uses is always freely given, is not conditional, and is never bundled into acceptance of an electricity supply contract. The AMI Policy Committee should review any suggested exceptions to the Opt-In that might be put forward by Registered Participants, and if agreed, officially specify them.</p>	<p>Recommendation 4</p> <p>We support the Opt-In process for customers consenting to the secondary use of metering data.</p> <p>We recommend that the process used by industry for obtaining customers' consent to the use of their 'Personal Information', including metering data from smart meters, should be structured to permit consent to separate secondary data uses over time as new products and capabilities are developed for the market.</p> <p>Further, we consider that a customer's express consent should not be required for secondary purposes exempted by the AMI Policy Committee and uses stipulated and required by legislation.</p>	<p>Although CitiPower/Powercor believes that the existing privacy regime adequately deals with secondary uses of metering data, in principle, CitiPower/Powercor does not object to ESC's recommendation.</p>

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<p>Recommendation 6</p> <p>As and when DBs and RBs implement new databases as part of the AMI adoption, they should take care to keep raw metering data (keyed by National Meter Identifier alone) separate from all other identifiable customer records in order to mitigate against ready re-identification. In general it is essential that teams implementing, configuring and maintaining databases are fully aware of the NPPs and the broad legal definition of Personal Information, to help them avoid inadvertent privacy problems.</p>	<p>Recommendation 5</p> <p>This aspect of data security should be subject to internal and external audit processes as outlined in ESC Recommendation 1 above.</p>	<p>Please see our response to ESC Recommendation 1 above.</p>
<p>Recommendation 8</p> <p>Consideration should be given to clarifying what meter data may be (or should be) disposed of after seven years. From a privacy perspective, unless there is a clear reason to retain fine grain interval data at each Participant, it should be destroyed, or aggregated to the greatest reasonable extent.</p>	<p>Recommendation 6</p> <p>We recommend that any regulatory obligation to provide data to the market should be clarified by the AER in terms of who bears this responsibility, time frame and detail having regard to the new paradigm presented by smart meters.</p> <p>Staff access to retained interval data should be monitored and audited (as per the Commission's Recommendation 1 above) to ensure it remains appropriate and required for defined business purposes.</p> <p>External access to aged interval data should only be permitted with a customer's consent if it is their data, and otherwise, only where it is aggregated or otherwise unable to identify individual customer's usage.</p>	<p>In principle, CitiPower/Powercor does not object to ESC's recommendation.</p> <p>In relation to the ESC recommendation relating to audit, please see our response to ESC Recommendation 1 above.</p>
<p>Recommendation 14</p> <p>Review "Privacy Notices" provided to smart meter</p>	<p>See ESC Recommendation 2 above</p>	<p>Please see our response to ESC Recommendation 2 above.</p>

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<p>customers— whether they be explicit or implicit (as is often the case where passages of legal text are incorporated into other customer communications)— and ensure that the notices properly anticipate the potential secondary uses of metering information (such as providing energy efficiency advice direct to consumers, supporting third party services on an opt-in basis and so on).</p>		
<p>Recommendation 15</p> <p>Consider developing a common skeletal layered Privacy Notice that all organisations involved in AMI can use as a basis for their own notices, setting out the industry's regulatory protections, the reasons and uses for smart meter data collection, and the controls that consumers have over how meter data is used.</p>	<p>See ESC Recommendation 2 above</p>	<p>Please see our response to ESC Recommendation 2 above.</p>
<p>Recommendation 16</p> <p>Require that small Retail Businesses that might otherwise fall below the Small or Medium Enterprise (SME) criterion for the Privacy Act expressly opt in to the NPPs with the Office of the Privacy Commissioner.</p>	<p>Recommendation 7</p> <p>All unregulated third party providers that access or store 'Personal Information', including metering data of electricity customers from customers themselves via their HAN should be encouraged to abide by the NPPs in their business.</p> <p>This could be in the form of encouragement to Opt-In to coverage under the Privacy Act 1988 as allowed for by the Office of the Australian Information Commissioner. We also recommend that the AER consider publicising the names of third party providers who agree to abide by NPPs as a form of 'tick' or approval of such action.</p> <p>The ESC should monitor compliance of Accredited Persons (VEET accredited installers of IHDs) with privacy obligations. In the event any APs expand</p>	<p>No comment as this is a retailer issue.</p>

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	<p>their business model to provide other services involving accessing and storing data from IHDs (such as for energy efficiency analysis) the ESC should:</p> <ul style="list-style-type: none"> • Further specify Privacy obligations as part of the process for seeking accreditation • Amend or develop regulation to be able to suspend or remove accreditation for breaches of privacy. <p>Small electricity retailers should be under the same obligation to protect customer data as other Retailers. Accordingly they should be made subject to the NPPs as a condition of their authorisation by the AER.</p>	
<p>Recommendation 17</p> <p>Consider industry-wide minimum security policy settings for protecting interval data against misuse, including the following possibilities:</p> <ul style="list-style-type: none"> • DBs should quarantine all data containing customer names from raw interval data • DBs and RBs should audit log all access by users to interval data <p>Retained interval data aged between two and seven years should be subject to more limited access rights than more recent data that might be needed to resolve billing issues.</p>	<p>See ESC Recommendations 1 and 6 above.</p> <p>Staff access to retained interval data is the responsibility of business to manage according to the NPPs. We see this aspect of data management as also subject to our audit recommendations.</p>	<p>Please see our response to ESC Recommendations 1 and 6 above.</p>
<p>Recommendation 19</p> <p>In order to give consumers access to their interval data (as required by the Access & Correction</p>	<p>Recommendation 8</p> <p>We recommend the development of a minimum industry standard for data provision with respect to</p>	<p>In principle, CitiPower/Powercor does not object to ESC's recommendation.</p>

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<p>Principle NPP 6), protocols should be developed for providing data in standard formats such as Excel spread sheets.</p>	<p>smart meter interval data; and separate information materials to inform consumers of the value of metering data information and to clarify industry terms.</p>	
<p>Recommendation 20 In order to boost consumer confidence in the security of the system, DPI should consider commissioning an independent Threat & Risk Assessment (TRA) of any new online portals.</p>	<p>Recommendation 9 Retailers' and Distributors' online portals should comply with industry best practice standards, including when operational, the conduct of regular security audits. This should also be included as part of an independent audit of data security systems and processes. Sites not applying recognised industry best practice standards should be subject to an independent threat and risk assessment. We recommend that DPI work with industry to identify acceptable standards for online portals, monitor online portals and keep industry informed of changes in industry best practice standards. Further, the Government should clarify what powers would be required to rectify/remedy deficient websites and which agency would be responsible for undertaking this assessment.</p>	<p>At this stage, CitiPower/Powercor is not contemplating a web portal for access to energy consumption data. CitiPower/Powercor's IT security policy would cover these obligations if this was contemplated in the future.</p>
<p>Recommendation 21 Protocols will need to be developed for preventing old occupants from still having access to and/or control over the HAN after they vacate premises. Ideally, when a smart meter's customer changes, there should be an automatic unbinding of devices from the HAN, and the access code for establishing</p>	<p>Recommendation 10 We support Lockstep's recommendation and consider that a Protocol will be essential to clarify the respective roles of customers, Retailers, Distributors and third party providers to protect customer data (by purging it from an IHD) at the time of unbinding from a HAN. This protocol should consider:</p> <ul style="list-style-type: none"> • The present primary communication role of 	<p>CitiPower/Powercor agrees that the roles associated with HAN devices need to be clarified. In particular, there needs to be clarification on who is responsible for tracking which devices are with a particular customer at any one time, when a device is bound and when a device is unbound, who is responsible for collecting this information and who has access to this information.</p>

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<p>a HAN on that meter should be changed. It may be prudent to amend the NECF or NER to legislate these measures.</p>	<p>Retailers with customers,</p> <ul style="list-style-type: none"> • The possible involvement of other third party providers (other than meter readers and Accredited Person) in accessing data via the HAN in future, • The requirement to give customers the opportunity to explicitly Opt-In to use of their data for secondary purposes. <p>We recommend that the unbinding process be an industry managed solution that does not rely on customer knowledge or memory to prevent wrongful access to another customer's data.</p>	<p>Most HAN devices will clear the meter data when unbound from the meter. This means that a meter retains historical data only from the time it was last bound to a HAN device. Ultimately the best solution would be to develop HAN device specifications that require all prior historical data to be removed. This is not part of any existing requirements.</p> <p>In regards to clearing data from HAN devices, DBs will not be able to purge data from HAN devices. There is no command to purge data via ZigBee commands and this must be done via the HAN device interface. Not all devices allow users to clear data.</p>
<p>Recommendation 22</p> <p>When the BPPWG comes to develop business processes and protocols for HAN activation, it should enact the Opt-In policy of Recommendation 4 above (to be confirmed) that all secondary uses of metering data shall be subject to express consent. Further, the BPPWG should consider enforceable requirements that data is handled across all HANs in accordance with the NPPs.</p>	<p>Recommendation 11</p> <p>We recommend that the National Smart Metering Program take into account the following considerations in developing business processes and protocols for HAN activation:</p> <ul style="list-style-type: none"> • The need for a clear and common understanding of secondary uses of metering data and a clear delineation of the responsibilities of Retailers, Distributors and/or others for obtaining customer consent are minimum requirements for effective enforcement of customer Opt-In provisions. • The development of a specific regulatory relationship with unregulated third party businesses, beyond encouraging the adoption of the NPPs, may impose potentially excessive regulatory burden, and that this issue be revisited in the light of future experience with smart meters. <p>At this stage the Commission sees value in the provision of some structured form of information or</p>	<p>In principle, CitiPower/Powercor does not object to ESC's recommendation.</p>

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<p>Recommendation 23</p> <p>If in future individuals within a household enter into third party contracts (with Retailers or Third Parties) relating to use of smart meter data, such contracts should be signed by both the individual and the main electricity account holder.</p>	<p>support for customers (see also Consumer Information Recommendation 14 below).</p> <p>Recommendation 12</p> <p>We don't see an immediate need to introduce regulations in relation to Lockstep's recommendation.</p> <p>Government and the relevant regulatory agencies would need to consider whether a completely new form of contract would be required given the type of service envisaged and what the complexities, risks and cost benefit of taking the proposed approach could be.</p>	<p>No comment required.</p>
<p>Recommendation 24</p> <p>The ESC should amend the wording of its decision to refer to Privacy Policies or Codes, rather than "Privacy Principles" because the latter term has a technical meaning in legislation.</p>	<p>Recommendation 13</p> <p>While we agree the recommended wording may have been preferable, we consider that any amendment to previous Commission decisions may be unnecessary and undesirable at this point particularly given the scheduled transfer of retail regulatory functions to the Australian Energy Regulator in July 2012.</p>	<p>No comment required.</p>

