



25 November 2020

Energy Security Board
Level 15, 60 Castlereagh Street
Sydney NSW 2000

By email: info@esb.org.au

Dear Dr Schott,

Re: Energy Security Board Data Strategy Consultation Paper – EWON, EWOV, EWOSA and EWOQ Submission

Thank you for the opportunity to provide comment on the Energy Security Board (**ESB**) *Data Strategy Consultation Paper (Consultation Paper)*. This submission has been compiled by the Energy and Water Ombudsman New South Wales (**EWON**), the Energy and Water Ombudsman Victoria (**EWOV**), the Energy and Water Ombudsman Queensland (**EWOQ**) and the Energy and Water Ombudsman South Australia (**EWOSA**). All four organisations are members of the Australia & New Zealand Energy and Water Ombudsman Network (**ANZEWON**) (the **Members**).

The comments below reflect the collective views of the Members in relation to the Consultation Paper, in our capacity as the dedicated external dispute resolution body for energy consumer complaints in our respective jurisdictions. As ombudsmen services, we are stakeholders, data users and data holders in the energy sector. Collectively, we have a strong interest in the development of energy policy that will generate positive consumer outcomes and reduce complaints.

The Consultation Paper presents a comprehensive and cohesive strategy to take Australia's energy system forward into the next decade and beyond, at a time when increasing diversification in the network will inevitably lead to greater complexity. Marshalling that complexity and ensuring that it does not result in poor consumer outcomes is rightly a priority for the ESB - and the Members strongly support the Board in its efforts.

Our further comments are set out below.

PILLAR 1: NEEDS TODAY – FIT FOR PURPOSE DATA

Question 1: Data gaps and priorities

Are there key data gaps that we have not identified?

Do stakeholders have views on which data issues take priority?

Will some of these data issues be resolved by existing processes?

Do stakeholders support the recommended actions? Are there alternative options?

As the ESB notes, the list and scope of issues presented in the Consultation Paper is extensive. As a result, the Members are not aware of any key data gaps not already identified by the ESB.

Similarly, the priority areas identified by the Consultation Paper as data gaps to be closed in the initial phase of the Strategy are well considered, and we support them. They are, namely:

- retail transparency
- understanding consumers and demand; and
- LV-DER visibility.

In seeking to close these gaps, the Members also support the ESB in their articulated principles that data should support stakeholder needs in the interest of the public good, and that data management should be efficient and safe.

The ESB is correct in saying that data gaps and inefficiencies have been a concern across the energy sector for some time, and the Data Strategy proposed by the Consultation Paper will do much to hasten the closing of existing data gaps. In recent years, we have seen significant data gaps addressed (such as greater knowledge of embedded networks, the establishment of the Australian Energy Market Operator (AEMO) Distributed Energy Resource (DER) Register and refinement of various data sets connected to the forthcoming Consumer Data Right (CDR)).

The Data Strategy will hasten this trend, and provide all stakeholders with the tools and information they need to engage effectively and efficiently with the market - and ensure the best outcomes for consumers. The Members support all seventeen recommendations made under Pillar 1 of the Consultation Paper.

PILLAR 2: FRAMEWORK – NEW DATA GOVERNANCE

Question 2: Regulatory reforms

Do stakeholders support the proposed reforms and guidelines, noting they require detailed design and would go (sic) be developed and undergo further consultation through usual processes?

The Members support the proposed reforms and guidelines. The following comments are the Members' response to and suggestions in relation to the recommendations set out in Pillar 2 of the Report. The Members anticipate the release of further details concerning the final design of the proposed reforms and guidelines.

One key point of emphasis in relation to Pillar 2 is the role of the Members under the final design. The Members, as energy and water ombudsmen, provide front-line services for customers and receive current information from customers and scheme participants (retailers and network service providers) in the process of resolving disputes. As such, we hold valuable data on current and historical issues and trends in energy – data which is likely to be valuable to regulators and decision-makers in determining energy policy.

Any final design would need to recognise that the Members are primarily data-holders. We can (and may from time to time) receive external data and process it, but our traditional contribution towards energy policy is in providing de-identified customer data (and commentary) to National and State regulators to ensure the issues seen by our offices are considered in these processes.

Member Comment on Pillar 2 Recommendations

Recommendation 18: High-level energy data principles

The Members support the proposed energy data principles, both in the need for such principles to be included as part of the ultimate design of the EDS and in those specifically proposed. Given the breadth of the proposed reforms it is important to ensure uniformity in approach, and the principles ensure to some extent that future reforms (and reforms under an incremental approach) are driven by the same goals.

The Members agree with the emphasis placed on consumer interests and privacy in the first principle in Recommendation 18, noting that significant harm can come to consumers through the misuse of personal information. This being the case, the Members acknowledge the strong perceivable benefit in greater flexibility of use of consumer data to drive reforms and identify areas of underperformance in the sector, as noted in the third principle.

The Members similarly support the other listed principles, noting the importance of consistency between data frameworks in Australia and clarity of obligations for simpler regulatory compliance.

Recommendation 19: Overhaul of the legislative framework

As noted in the consultation paper, there are currently numerous provisions within the national energy legislation concerning the disclosure of consumer data, as well as state-specific privacy legislation, federal corporation rules (including those applying specifically to the ACCC) and concurrent national data reforms (such as the CDR). The breadth of legislative and regulatory requirements pertaining to the disclosure of data and privacy is substantial and reduces clarity as to what data sharing is permitted. As entities frequently called upon to share data with National and State regulators, the Members support greater clarity in this regard.

The Members support a comprehensive review of the existing legislative framework, including at both the federal and state levels. The proposed reforms are to create a national data strategy, and it is difficult to see how any such reforms would be effective without an overhaul of the existing framework. Further, the Members support the principles outlined in Recommendation 19 as building blocks from which to develop any new framework. The Members again support the elevation of privacy concerns for the reasons set out above.

Recommendation 20: Incremental regulatory changes

The Members acknowledge that major reforms, such as those proposed under this consultation process, take time and there is a need for interim measures to support long-term objectives. As with the other recommendations, the Members anticipate the release of more detailed designs for comment. However, we reiterate that any solution should reflect that our organisations are holders of data concerning energy disputes and we should be categorised as such.

Recommendation 21: Common guidelines for data collection and sharing

The Members support the development of common guidelines for data collection and sharing as proposed by Recommendation 21.

Recommendation 22: Support coherence with the CDR

The Members support the planned coherence of the data reforms with the CDR proposed by Recommendation 22.

Pillar 3 – Capability – Drive leadership, coordination and capability

Under Pillar 3, the ESB focuses on addressing organisational non-regulatory barriers. The ESB considers that organisations struggle to keep up with the shift towards digitalisation. The ESB suggests that the non-regulatory organisational barriers to accessing and effectively managing data include gaps in governance structures or processes, and constraints on capacity and resources.

Specifically, there are:

- lack of clear roles, resources and coordination;
- systems and capability constraints; and
- risk-averse cultures.

Under Pillar 3, the ESB notes that leadership processes for the Strategy to drive data management change are needed. The ESB proposes to create a data leadership group, a data users group and support services that will improve data visibility, data access and data impact.

Question 3: Leadership and Coordination

Is a Data Leadership and Coordination group the right approach to drive change?

Are there alternatives within existing arrangements?

Should it be limited to the core agencies or have a wider representation (for example the ACCC, representatives of Energy Ministers or consumers)?

Is a collaborating group, with identified terms of reference and public deliverables to Energy Ministers, sufficient? Or is a more formal governance arrangement necessary?

Is the [Data Users Group] DUG likely to be necessary and/or effective?

Are there other alternatives to a formal reference group, such as regular stakeholder engagement processes?

What else is required to ensure wider stakeholder needs are met?

Data Leadership and Coordination Group

The ESB suggests that a strategic coordinating group is needed to deliver data reforms; drive cultural change and capacity development; and engage with agencies and government. The ESB proposes that the Data Strategy should be led by the core agencies (including ESB, AEMC, AER, AEMO and Energy Consumers Australia (ECA)), and should report on its progress.

The Members support the establishment of the proposed Data Leadership and Coordination Group (**DataLAC**) and Data Users Group (**DUG**). The ESB has proposed that Ombudsman schemes participate in the DUG as ‘major data holders’, however, we consider that it would be appropriate that ANZEWON representation should also be included in the DataLAC. Energy and Water Ombudsman schemes have unique roles as data holders, given the



volume and nature of complaints we manage. We hold unique, detailed data about customer's experiences with most elements of the energy sector. Further, by participating in the proposed Leadership Group, we would be able to make important contributions to driving improvements in the data system. Each energy Ombudsman office would not have to be individually represented in the DataLAC – ANZECON would appoint one Ombudsman to represent our offices collectively.

Data Users Group

The ESB considers that wide engagement and representation is needed, which is important to change data sharing and transparency from being limited and risk averse. The ESB notes this approach will also benefit policy makers or research, focus on streamlining and efficient data-gathering. The ESB considers that a standing reference group would be beneficial, which could contribute to progress, access, shifts away from a risk-averse approach, collaboration, and effective practical measures.

The Members support the proposed observer status that selected representatives from the DUG will have for the DataLAC. The DUG should have wide representation, including Ombudsman staff, as it is critical that there is adequate representation of customers to ensure that their issues or concerns are considered and that their needs are addressed.

Wider stakeholder needs

Currently there is useful data that is held by different organisations, and there is a need to implement a system that brings it together. For example, currently data about debts is held by individual retailers and the Australian Energy Regulator.

Electricity and gas providers are bound by the *Privacy Act 1988*, which sets out the ways providers can deal with customers' personal information. Ombudsman jurisdiction includes complaints about privacy issues. The Members consider that it is important that customer privacy issues are identified and addressed when collecting, using, and storing data. Depending on the type of data, explicit informed consent should be obtained from customers.

Access to data should be available to a range of stakeholders, such as consumers, businesses and academics. As the ESB notes, the energy CDR reform is underway and the ESB's Data Strategy should align with the CDR reform outcomes.

As the ESB identifies, digitalisation requires changes to the way in which data in the energy sector is managed. Digitalisation will have an impact on data that is collected and the data that is requested by customers and organisations. The Members note that the development of new products and technologies will be shaped by data, and this will have an impact on consumers. This may lead to new complaints to our schemes which in turn, positions us to provide systemic and strategic input to the work of the Data Leadership and Coordination Group as well as contributing to the work of the Data Users Group.

Question 4: Data visibility

Should the DataLAC and DUG be tasked with curating/managing a list of relevant data sets and activities? What could be done to ensure that this is helpful rather than a burden? Is a meta-portal worth considering? Could an existing site be expanded to play part of this role (such as one of the core agency sites, NEAR or AREMI)? How could this be resourced and funded?

The Members do not have any comments in response to Question 4 at this initial stage. However, as the Strategy progresses over time, we look forward to contributing to the data visibility component.

Question 5: Data access and supporting resources

How do we ensure that systems and analytical capabilities are available to support better data access? Who is best placed to support this capability? How do we ensure that stakeholders eligible for appropriate data access don't find resourcing a barrier? For access to outcomes from high-value AEMO datasets, does AEMO need specific obligations or support to ensure resourcing or prioritisation are not barriers?

The Members do not have any comments in response to Question 5 at this initial stage. However, as the Strategy progresses over time, we look forward to contributing to the data access and supporting resources component.

Question 6: Data impact and resourcing analytics

How do we ensure that key research and analytical needs can be met, to maximise consumer outcomes? Who is the best party to support analytical services and build capability? Is this best undertaken internally by all parties or is some central or third-party expert capability advised?

The Members do not have any comments in response to Question 6 at this initial stage. However, as the Strategy progresses over time, we look forward to contributing to the data impact and resourcing analytics component.

Pillar 4 – Needs tomorrow – Support change and adaptability

Question 7: Proactive governance and forward review

Do we need more proactive approaches or clear responsibilities to resolve forward-looking technical challenges in data? Whose responsibility should it be?

The Members support tasking DataLAC to undertake an annual stocktake of performance against the outcomes identified in the Data Strategy. We submit that our proposal to include ombudsmen as members of DataLAC as well as the DUG will help facilitate this annual stocktake, as we have a strategic ability to identify emerging or persistent gaps in data requirements. Our work with energy consumers and the energy industry involves significant handling of data as well as addressing data challenges, which places us in a strong position to identify such gaps.

The responsibilities for both DataLAC and DUG will need to be clearly identified, so that DataLAC will be able to maximise benefit from the knowledge in DUG and to avoid duplication.

Question 8: Standards governance

With the introduction of the proposed DER Standards Governance arrangements, DEIP processes and the new CDR standards body, many standards needs will be actively progressed.

Will these arrangements likely support most ongoing needs for data standards? Are there gaps or wider issues which need to be considered?

The Members consider that the proposed DER Standards Governance arrangements, DEIP processes and the new CDR standards body will meet the majority of ongoing needs for data standards.

Question 9: Adaptable arrangements

Do stakeholders have views on how to ensure the design on Rules, guidelines and procedures consider the new data principles and the need to adapt more flexibly as technology and data requirements change?

Do stakeholders think more detailed Rules guidance, as proposed by KWM, is necessary? Are there alternatives?

Other processes have proposed a default to non-prescriptive approaches for certain types of Rules – is this workable in the case of data-related Rules?

Should the DataLAC have a role in providing advice on data issues and approaches in new Rules, guidelines and procedures? Could this be part of contributions in normal consultation processes or would it need a more formalised function (noting additional requirements may lengthen the time it takes to consider a Rule change)?

The Members support the proposal that DataLAC have a role in providing advice on data issues and approaches in new Rules guidelines and procedures and that this be provided for in any terms of reference for the DataLAC.

We consider this could be part of contributions in normal consultation processes and does not require a more formalised function.

Question 10: Energy data for research

Are there energy data challenges for researchers not effectively represented in this paper?

How are researchers' interests best represented in the DataLAC/DUG? Do they require specific representation in the group, a focussed sub-group or leveraging of a wide existing process? Are there sufficient levels of interaction and engagement in the existing research community regarding these issues?

If reforms proposed under Pillar 2 to allow more research access to data are progressed, would protected access to more real data be more useful than synthetic open data sets (as proposed in a range of ARDC ePlatforms)? Or do synthetic open datasets have alternative value through less constraints and sharing of tools?

Current data portals for energy research data seem limited in their usability and visibility, with much useful research and data getting underleveraged. Are there examples in other sectors of better ways to ensure research is visible, easier to navigate and integrate?

The Members considers that researchers' interests can be best represented in the DUG, given they would be represented as energy data users.

We trust these comments are useful. Should you need further information or have any queries, please contact Zac Gillam, Senior Policy and Stakeholder Engagement Officer at EWOV, at zac.gillam@ewov.com.au or on (03) 8672 4285.

Yours sincerely,



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