Dr Kerry Schott AO
Energy Security Board

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Energy Security Board Data Strategy

The Australian Energy Council ('AEC') welcomes the opportunity to make a submission to the Energy Security Board's ('ESB') *Data Strategy Consultation Paper* ('Consultation Paper').

The AEC is the industry body representing 21 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia, sell gas and electricity to over ten million homes and businesses, and are major investors in renewable energy generation.

In recent years, data collection and use in the National Electricity Market ('NEM') has become burdensome. Participants are required to provide data to multiple agencies, both in a systematic and ad hoc manner. These frequent requests are driving up costs, but it is unclear what benefits consumers are seeing from this additional data. This is creating a problem because, as noted by the ESB, accurate and relevant data is critical to effective policy development. The Data Strategy represents a significant opportunity to develop a comprehensive, streamlined approach to the collection and use of data that can ensure the market continues to operate in the long-term interests of consumers.

Developing the Data Strategy is also important to keep pace with the growth of the digital economy and enable the energy sector to take a positive step forward in modernising energy data regulation and facilitating digitalisation. To do this, it is important that the Data Strategy delivers upon clear objectives. If implemented correctly, a strategy that streamlines data collection requirements on industry can create certainty and minimise compliance costs while enabling the recipients of data, namely regulators and customers, to make more informed decisions.

The complexity of developing a comprehensive Data Strategy for a sector as large and diverse as energy necessitates that clear principles are followed when determining what datasets are to be made available. In recognition of this, the Finkel Review recommended the development of the Data Strategy follow a phased approach. The first phase was to undertake a data gap analysis in consultation with industry, which would define the problem and pave the way for a cost-benefit analysis of possible solutions. It appears from the Consultation Paper that this step was undertaken internally and by a third party. Industry was not privy to the data gap analysis that underpins this Consultation Paper, and the Paper itself does not clearly explain what problems the Data Strategy, and its recommendations, are intending to address. At least at a high level, the Consultation Paper instead appears to assume that there is a broad public interest in making any and all industry data available. This contention appears to stem from the premise that more data will mean better decision-making, rather than a need to aid specific decision-making with data.

Furthermore, the Consultation Paper has not provided an estimate of the costs associated with the design and implementation of each recommendation; it does not appear a proper cost-benefit analysis has been undertaken, but rather asks stakeholders to estimate the quantum of costs it might incur if the strategy was implemented as proposed. It is not clear to what extent the ESB will consider preliminary cost estimates in its benefit determination, especially since the Data Strategy has not seemed to enshrine cost-benefit analysis as a formal requirement. Formal cost-benefit analysis is particularly important in scenarios where industry will be providing the data for the benefit of others

Level 14, 50 Market Street
Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001

P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

ABN 926 084 953 07

– namely policymakers, who in turn intend to use the data to improve outcomes for consumers. The AEC considers more work needs to be done on the Data Strategy to ensure this is front of mind. The current approach overlooks the onerous compliance costs that data holders will incur, which will be passed down to customers.

To ensure the value of datasets is properly measured relative to their costs, the ESB should implement a decision-making matrix into the Data Strategy to enable policymakers and the proposed DataLAC to evaluate the merits of each proposed dataset. This evaluation would include the scale of costs, the ease in which the data can be collated, reliability of the data, value to regulators, and value to customers. Having a matrix in place is important not only for transparency over decision-making processes, but also so the Data Strategy recognises that digitalisation is an evolving, rather than static, process and the way stakeholders interact with and value their data will change over time.

With this in mind, the AEC's view is for the Data Strategy to prioritise as its starting point the consolidation and streamlining of the existing regulatory data framework. This should include removing duplicative reporting requirements to achieve consistency across agencies, improving the accessibility of publicly available data, and smoothing the sharing of data between agencies. Developing confidence in the current regulatory framework is an important pre-requisite to the expansion of data sharing requirements.

From there, a governance structure should be established that is responsible for coordinating the expansion of aspects of the Data Strategy, with a particular focus on identifying the value and costs of individual datasets considered. The current four pillar approach, which emphasises building institutional governance as the final step, appears counterintuitive, given the concerns raised in the Consultation Paper that there is not enough information for regulators to make informed decisions. The governance structure should include a governance body, made up of representatives for the regulators, industry and consumers, who assess the value of new datasets relative to costs, and review the effectiveness of already implemented recommendations. This review aspect is especially important in light of the ESB's acknowledgment that it is difficult to determine the impacts of a particular reform.

General comments on the ESB's Data Strategy

To enable a Data Strategy that is both effective and efficient, the AEC has set out three principles that should guide how the ESB progresses with its suite of recommendations. These principles build upon the phased approach outlined in Recommendation 7.14 of the Finkel Review and other best practice models for regulatory reform. The approach seemingly taken in this Consultation Paper, to reverse the burden of proof so stakeholders must prove why a recommendation should not proceed, is not reasonable.

Principle 1: Clear Decision-Making Apparatus

The Finkel Review states that the 'initial design of the data strategy must be developed in consultation with industry bodies and consumer bodies'.[1] This has not been done. The data gap analysis that underpins this Consultation Paper was conducted internally and through a third party, without industry consultation. Noting it is unlikely a second data gap analysis will be performed, it is nonetheless critical that problem areas are clearly identified and appropriately prioritised before any proposed recommendations are implemented. The AEC's experience with other regulators has found that requests for data where no problem has first been identified often culminate in processes that are onerous on industry, time intensive and ultimately fruitless.

[1] Dr. Alan Finkel, 'Independent Review into the Future Security of the National Electricity Market', Commonwealth of Australia, June 2017, p184.

Level 14, 50 Market Street
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E info@energycouncil.com.au
W energycouncil.com.au

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To enable the identification and prioritisation of problem areas, the AEC supports creating a decision-making apparatus for an advisory body, likely DataLAC, to follow. This decision-making apparatus would align with DataLAC's responsibilities to foster best practice and address data needs in the most efficient and effective way. To do so, it would adhere to three sequential steps:

1. clearly define a problem;
2. identify the data gap that can resolve this problem;
3. consider the most reasonable solution through a cost-benefit analysis.

Principle 2: Cost-Benefit Analysis

The principle of cost-benefit analysis is recognised as fundamental to best practice when pursuing regulatory reforms, especially reforms as comprehensive in scale as a Data Strategy. The *Best Practice Regulation Guide* for COAG, which the ESB exists under, identifies cost-benefit analysis as one of its core principles of best practice regulation.[2] This is consistent with other best practice guides, such as the *Australian Government Guide to Regulatory Impact Analysis.*

In the energy sector, the principle of cost-benefit analysis is well-embedded in decision-making processes. The National Electricity Objective ('NEO') and National Energy Retail Objective ('NERO') both dictate that rules must promote efficiency, which the rule-making body, the Australian Energy Market Commission ('AEMC'), has interpreted as meaning economic efficiency.[3] Probably most importantly, Recommendation 7.14 of the Finkel Review, which triggered this Data Strategy, said the ESB's initial design 'should include costs for design and implementation for initial set up, plus indicative costs for ongoing maintenance of the key deliverables under the data strategy'.[4]

The accepted wisdom of undertaking cost-benefit analysis makes its omission from the Consultation Paper concerning. At a basic level, Recommendation 18 – which intends to set out high-level energy data principles – makes no mention of cost-benefit analysis except for a reference to the energy market objectives. More broadly, there has been no quantitative assessment of the costs of these reforms, nor consideration as to how data holders are expected to recover these costs. This is especially concerning given the current volatility of the retail electricity market, which is unlikely to improve in the near future. The AEC acknowledges these steps may be intended to be undertaken as the Data Strategy continues to evolve, however without clear expectations for industry and consumers that all decisions are cost-efficient, including for the first pillar datasets regarding retailer transparency, it raises concerns for industry.

Principle 3: Representative Governance Structure

The AEC acknowledges that a motivation for the retailer transparency reforms is the ACCC's Retail Electricity Pricing Inquiry report from 2018, which indicated market failings in the way energy is monitored and regulated. Specifically, regulators do not have enough information to make informed policy decisions to improve the energy market, to the benefit of consumers.

For this reason, the AEC firmly believes that a formal governance structure must come before the implementation of the Data Strategy. The structure would include having an advisory body such as the proposed DataLAC responsible for undertaking a prima facie cost-benefit assessment of prospective datasets, advising on which datasets represent the most value to customers relative to overall costs, and when to proceed with implementation. From there, formal rule-making processes can commence, with industry confident that genuine concerns have been understood. It is integral

[2] Council of Australian Governments, 'Best Practice Regulation: A Guide for Ministerial Councils and National Standard Setting Bodies', October 2007, p21.
[3] Australian Energy Market Commission, 'Applying the Energy Market Objectives', July 2019.
[4] Dr. Alan Finkel, 'Independent Review into the Future Security of the National Electricity Market', Commonwealth of Australia, June 2017, p184.

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W energycouncil.com.au

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these governance groups are representative to ensure all costs and benefits are duly weighed in any decision-making process. In this respect, the AEC considers that industry representation should be included in the proposed DataLAC body.

Response to recommendations

Retailer Transparency

Recommendations 1 to 5: Information requirements on retailers
Recommendations 1 to 5 fall under the ESB's first pillar and are about improving retailer transparency. The apparent argument for these recommendations, being that the absence of evidence is evidence of their need, makes it difficult to assess the value of each dataset. As a general rule, the AEC believes the ESB should provide a compelling use case for each dataset so the costs and benefits can be better understood.

1. *Retail plans and billing*

Policymakers, such as the AEMC, have reiterated the need for further information relating to retail plans and billing as critical to understand how the market is functioning. The AEC does not oppose the objective of better understanding the offers customers are entering into, but questions whether this issue remains material in today's data ecosystem.

Additionally, there remains a need to ensure that retailers are not required to provide data to numerous agencies, in numerous forms. The AEC understands the ACCC is collecting this information as part of its Electricity Price Monitoring functions, which are not due to conclude until at least 2025. Given the availability of this data, the AEC strongly encourages the ESB to utilise a governance advisory group (such as the DataLAC discussed in the Consultation Paper) to re-investigate the most efficient, and effective means, of obtaining the information that is objectively relevant to the needs of policymakers.

2. *Streamlining price reporting*

The AEC supports this recommendation and believes it should be the first course of action of any Data Strategy. As it currently stands, there are duplicative and inconsistent reporting requirements placed on retailers from different agencies. This is inefficient and unnecessarily drives up compliance costs, as well as making it confusing for stakeholders seeking to find information. Streamlining current requirements and electing one agency, namely the AER, as the authoritative source for price reporting can reduce costs and confusion.

The AEC would like to see greater details about how an almost-live dashboard of retail prices would operate and what data sharing obligations it would place on retailers. While such a dashboard sounds intuitive, it should be considered for whose benefit it would exist. It is unlikely ordinary customers will use the dashboard when making decisions and the utility it provides to regulators is not clear.

3. *Tracking commercial and industrial prices*

The AEC does not support this recommendation until evidence is presented that large users are unable to negotiate their contracts effectively. The stated basis of these recommendations, the *Retail Electricity Pricing Inquiry* report, did not raise major concerns about the ability of large customers to fairly compete for an affordable electricity contract.[5] If anything, it implied that competition between

[5] The one concern raised was specific to South Australia and was based upon problems relating to the illiquidity of the hedging market, not a lack of transparency from retailers, as cited in ACCC, 'Retail Electricity Pricing Inquiry – Final Report', Commonwealth of Australia, June 2018, p113.

demand side management providers and retailers was likely producing positive outcomes for large customers who could respond to wholesale price signals.[6]

Furthermore, other data innovations, namely the Consumer Data Right ('CDR'), have showed some caution in capturing large customers, asking first for information from stakeholders about the costs and benefits of taking such action. With this in mind, the AEC notes that the provision of electricity to large customers commonly takes place outside of the traditional customer-facing infrastructure that defines a retailer's interactions with residential and small business customers; these retailers have instead developed sophisticated and bespoke electricity arrangements with the large customer. This means these retailers are likely to incur significant compliance and IT costs to maintain compliance, despite no compelling use case being presented.

4. *Contract market monitoring*

It is not clear why data holders should be required to provide this data to the AER when it is already available from the Australian Financial Markets Association. Imposing duplicative requirements on data holders is not cost-efficient and serves as a good example as to why these recommendations must undergo proper cost-benefit analysis.

5. *Retail margins*

The AEC opposes this recommendation as it represents regulatory overreach. Concerns about market power are the responsibility of the ACCC, which has the power to gather information about retail margins if needed. The functional effect of this recommendation appears to be to shift some of the ACCC's powers of regulation under the *Competition and Consumer Act 2010* to the AER. This will ultimately create a fractured and inconsistent regulatory structure where retailers operating outside of the AER's jurisdictional authority, such as in Victoria for example, would be excluded from this performance monitoring.

The AEC is further concerned about the risks of this data being politicised and used out of context. Retailers have different commercial strategies, operation sizes, and portfolio structures, with some having a generation portfolio and/or non-energy investments (e.g. telecommunications) that influences their retail operations. There are also different financial standards in the way retailers report and record their commercial information. How the AER would capture and compare these nuances when publishing its retail performance monitoring has not been made clear.

Understanding Consumers and Demand

Recommendation 6: Access to meter data for public-good research

The Consultation Paper identifies a need to support greater access for safe protected analysis of meter data for public-good research, planning and policy. It is proposed to implement this through regulatory reforms (proposed in Pillar 2) and supporting analytic resources (proposed in Pillar 3).

The AEC will not contend that this meter data is proprietary information. This is, however, a big obligation and likely to be very expensive. As third-party holders of meter data, retailers (and presumably networks though we do not represent them) would not want to be approached individually to provide bespoke information to research requests. Nor do they hold all of the information. This is held and managed by Meter Coordinators. Meter Coordinators are AEMO Market Participants. The AEC believe that they are best positioned to be the source of access.

Whether there are standard data formats available for research, or other methods, is for final agreement between the responsible party and those regulating the access. In any case there will be

[6] ACCC, 'Retail Electricity Pricing Inquiry – Final Report', Commonwealth of Australia, June 2018, p203.

costs that are ultimately borne by consumers. Presumably the public good will include analysis of these costs versus any potential benefit.

Recommendation 7: Gas meter data

The Consultation Paper identifies gas as a direct substitute for many large sources of electricity demand, but with even less transparency. The Paper supports more holistic energy forecasting and understanding of affordability by exploring options to provide transparency of gas metering and linking electricity meters which have access to gas.

The AEC is not convinced that the "problem" with gas prices is a problem with meter data. There may be some benefit if it provides an opportunity for DNSP's to modernise their meter fleets and meter data IT. Again, this will be expensive and the costs will ultimately be borne by consumers with doubtful price benefits. Our view is that the replacement of existing domestic and commercial meters with smart meters will accumulate enormous cost for uncertain benefit.

Recommendation 9: Data on vulnerable customers

The AEC supports this recommendation in principle, noting that it builds upon the efforts that retailers have already undertaken before and during the coronavirus pandemic to support vulnerable customers. As this data can be sensitive, industry would like greater clarity around how this data may be used in broader academic debates about the linkages between energy use and health. It is important this information remains disaggregated and anonymised.

LV DER Visibility

Recommendation 11: Research impacts of current voltage levels

The Consultation Paper highlights that LV visibility has a range of benefits that should be considered in supporting investments, including management of overvoltage risks, which recent findings suggest may be under considered. The paper supports further study on the impacts of current voltage levels on consumer equipment, DER and losses.

The AEC supports this recommendation in principle, but in practice it may come too late given the mandated changes for meter and inverter standards in South Australia and the likely success of proposed changes to Australian Standard AS4777.2. The AEC has consistently raised concern about the mandating of V-VAR and V-Watt power quality response modes, and the proposed Volt-VAR set points in the absence of relevant cost-benefit analysis having been undertaken. This concern relates to whether these proposed power quality response mode settings are likely to have a predictable and material impact in reducing voltage, and at what cost to consumers, and further, whether that cost is distributed in a fair and reasonable manner. During the course of the Australian Standards Committee's deliberations, no such analysis to our knowledge had been undertaken.

It is the AEC's view that, though well-intentioned, the Australian Standards and South Australian changes may have a significant and largely unmeasured impact on customer value, and that the practical impact on voltage levels in the LV network is largely unproven at scale, or in network topologies that match the Australian context.

Through trial VPPs, operational data will become available to provide important insights into the interaction of DER with the low voltage distribution network, including on the causes of high voltage level and the potential impacts to customers. AEC members active in the VPP trial space are already actively exploring opportunities with academic institutions to draw upon that data to develop greater understanding of the potential impact of voltage levels on customer value.

Level 14, 50 Market Street
Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001

P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

ABN 926 084 953 07

Recommendation 12: Sharing network data for research

The Consultation Paper suggests that, whilst many networks are working with researchers on new tools and trials, they often struggle to effectively share data. The AEC is sceptical of both of these claims. Notwithstanding the absence of any central source of data to support network claims of current activity, no harm can really come from clarifying any existing guidelines that create barriers for network businesses and other market participants sharing data with research partners. Given this data is readily de-identified, existing privacy frameworks and protections should be suitable.

The AEC also notes that by the very nature of their monopoly, networks are not competitors. If they were, they would not need incentive schemes to engage in activities that improved efficiency or created a market "edge". Obligations on behalf of networks to share research and data therefore do not concern the AEC too much. However, their project partners are often competitive entities who would benefit competitively from proprietary information. This may in practice limit information sharing, as is normal, or indeed required by law, amongst competitors.

The AEC is committed to a framework that will support competitive neutrality in the provision of services and protect customers' privacy. Safeguards in any revised guideline would also need to address these. We believe that an approach linked to wider work on the research guidelines (Recommendation 31) and the overhaul of regulatory reforms (Recommendation 19) is required.

Finally, the AEC suggests that a cautious approach to this hypothesised issue is required. As noted in our response to Recommendation 11, wherein AEC members are already actively exploring opportunities with academic institutions to share information, this may not be a difficult issue at all.

Recommendation 13: Building analytic capability in LV data and modelling

The Consultation Paper identifies that networks have critical needs to build new tools and analytic capabilities to support LV visibility and DER. Respondents are asked to consider options to accelerate development of LV data sets, tools and analytical capability across networks through a broader collaborative research effort.

Whilst the AEC broadly supports the recommendation to consider options to accelerate the development of LV data sets, tools and analytical capabilities through collaborative research effort, we also consider that the requirement overlaps to a great extent with the core business of distribution networks to appropriately manage the electricity network. A prudent business would build the platforms it needed to efficiently operate, so it is likely that whilst this is an emerging issue, it could simply be interpreted that as to date it has not been worth a prudent network making this investment. This is a perfectly reasonable business position to take.

We are mindful that networks are not run by third-party researchers, advocates of alternative technologies, or regulators. The AER has historically pushed back on allowing costs for improvements in data and analytics on the basis that this would be a normal prudent business investment if it was worthwhile. Like the AER, the AEC observes that if a network does not think it needs to invest more in these capabilities to meet its core business needs then we are unsure that third party observation is a more compelling case.

Recommendation 14: LV reporting to provide transparency for DER customers and planners

The Consultation Paper identifies that DER investors and service providers currently have little visibility of network capacity. The Paper suggests that networks should be required to publish their estimated DER hosting capacity, and related contextual data, to help inform stakeholder investments and engagement in a range of decisions around DER connection requirements, optimisation and any related incentives.

Level 14, 50 Market Street
Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001

P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

ABN 926 084 953 07

This problem is slightly different to that in Recommendation 13, which addresses networks information for their own use. Recommendation 14's reporting proposal may require mandating, as the network may seek advantage from limiting such information to the market. Publishing network capacity may be useful for retailers and other DER investors with non-network solutions, and to some extent denying this information to those with competitive market solutions to network problems enables network owners to promote a distribution network solution that shores up the RAB.

The AEC has been the proponent of a number of rule changes in order to expand the potential for the market to provide non-network solutions at the LV network level, including the Contestability of Energy Services changes for Behind the Meter investment, and more recently the proposed rule change to reduce the threshold for the Regulatory Investment Test for Distribution ('RIT –D'). We have always encouraged rules that enable the provision of relevant constraint and value information to support competitive market participation and promote non-network alternatives.

In mandating this recommendation, we urge strict regulatory oversight is established to validate both the identified opportunities and the accuracy of any published DER hosting capacity. This could be enforced through data sampling and regulated reporting obligations.

Recommendation 15: Review of metering requirements and roll out

Metering is a key source of data to support greater LV and DER visibility, but this data is currently being under-utilized due to commercial barriers and out-of-date requirements. The upcoming AEMC review of competitive metering should consider LV-DER visibility issues (as part of its broader scope) including: metering data access rights for networks, network connection points, voltage reporting, gross metering, DER minimum requirements and opportunities for improved uptake of competitive metering to assist LV visibility.

The AEC supports the proposed AEMC review considering these issues in its scope. The AEMC has a more rigorous approach to its analysis of costs and benefits, including the need to allocate a financial value to those benefits. Some reviewers have assessed any benefit as a win for consumers, regardless of the cost. An absence of post implementation reviews of market interventions continues to enable this approach. It was the AEMC's assessment of Victoria's regulated smart meter rollout that drove its policy on competitive metering.

The AEC supports reforms to facilitate metering data access provided that the regulatory framework also provides appropriate safeguards to ensure data is only used for that regulated purpose, and is prevented from being shared with the unregulated ringfenced affiliates of that distribution network. The AEC supports the AEMC in addressing all of these matters in its review of metering requirements and roll out.

Recommendation 16: Evolving the DER Register to wider needs

The Consultation Paper suggests that AEMO should clarify the processes to update DER over time and consider a range of data gaps already raised, including network connection points and export constraints.

The DER register reflects the issues raised above; an absence of a rigorous cost-benefit analysis and overstated and unrealised benefits (such as the use of the register by emergency services, which failed to eventuate). Having been forced to bear the establishment costs of the DER register, having it evolve to meet its purpose is highly desirable from a consumer and industry perspective.

Level 14, 50 Market Street
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GPO Box 1823 Melbourne Victoria 3001

P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

ABN 926 084 953 07

Recommendation 17: Electric vehicle data
The Consultation Paper identifies that EV data needs remain complex, with requirements crossing several sectors, and that they are not included in wider DER requirements at this stage. The DEIP's EV data requirements workstream is developing recommendations on short and medium-term EV data requirements. The Consultation Paper hypothesises that wider recommendation in the Data Strategy may create opportunities to accelerate these needs.

Whilst the latter may eventuate, the AEC urges the ESB to leave it to the DEIP and not to set up parallel processes. As EV data presents a future (5-10 year) challenge we do not foresee a need for immediate reform. If the funding and secretariat arrangements for the DEIP via ARENA need to be examined or firmed, then the AEC would support the ESB considering advice from ARENA in that regard.

The AEC considers that the current DEIP processes are sufficiently resourced to resolve current EV data challenges and remain fit-for-purpose to support current decision-making on this matter.

New Data Governance

Recommendation 18: High-level energy data principles
Consistent with the comments made throughout this submission, the AEC would like to see cost-benefit analysis explicitly included as a high-level energy data principle.

Recommendation 19: Overhaul of the legislative framework
The AEC supports revising the legislative framework so it aligns with national data reform policy, however seeks further clarity over what is meant by a 'fit-for-purpose regime'. Any effort to create a bespoke data model for energy risks the energy sector being misaligned with the economy-wide intent of the Data Availability and Transparency Bill.

Recommendation 21: Common guidelines for data collection and sharing
The AEC supports developing a common guideline for how data is collected and shared, and it should occur before any expansion of data responsibilities. The guideline should aim to streamline the exchange of data information between energy agencies, removing duplicative or inconsistent requirements, and ensure all agencies are subject to the same legislative requirements with respect to how they manage data. In doing so, the guideline can serve as a platform that stakeholders are confident future data expansions can be built upon.

Leadership, Coordination and Capability

Recommendation 23: Data leadership and coordination group
The AEC does not support the formation of a Data Leadership and Coordination Group in the format proposed in the Consultation Paper. The proposed DataLAC includes participants from the energy market bodies, as well as representatives of consumers. It does not include any representation from industry, despite industry being a key data holder. This raises concerns for the AEC. Whilst there are clearly benefits from the market bodies better utilising and understanding the data they collectively hold, enabling this group to make recommendations about future directions, necessary data sets, and rule changes without including a genuine voice of industry risks seeing issues presented as 'agreed' between the market bodies and consumers – minimising the ability of a potential rule-maker to genuinely engage on the benefits and costs of a proposed reform.

As noted above, most of the data considered in this Data Strategy and future iterations of it will be provided, and paid for, by industry. These costs are not small and without a cost recovery mechanism in place, it is inappropriate for industry to be excluded from discussions about how the Data Strategy

will be implemented and potential areas for data provision expansion. While the Consultation Paper states DataLAC would formally have an advisory rather than decision-making role, it is likely to functionally serve as a de-facto decision-making body. The reasoning for including Energy Consumers Australia, which is not a regulatory body but is recognised as an important stakeholder due to it holding large amounts of customer-related data, is equally applicable for having an industry representative.

Recommendation 24: Data Users Group
The AEC supports the formation of the Data Users Group on the caveat that its existence is not used as a substitute for public consultation on any future data expansions. The AEC would see greater value in developing a broader DataLAC and requiring it to engage with affected users in developing any recommendations. This would enable a more complete understanding of the issues at hand and ensure that any guidance provided to policymakers by the DataLAC is robust.

Support Change and Adaptability

Recommendation 28: Forward review of Data Strategy against outcomes
The AEC supports undertaking an annual performance stocktake so long as it is guided by resolving clearly defined and identified problems rather than seeking data for data's sake. The apparent intent of this recommendation, being to assist 'identifying emerging or persistent gaps in data requirements and access', seems to align with the latter purpose. We would support an approach that links data gaps to a problem area, such as: 'identifying emerging or persistent gaps in data requirements and access *that may be useful in resolving an identified problem in the energy market'.*

Recommendation 30: Forward Rules Advice
The AEC is concerned with potential unintended consequences relating to this recommendation, namely the AEMC's decision-making authority being undercut. Regardless of whether DataLAC has an advisory or decision-making role, it appears an overreach to allow DataLAC to partially subsume the AEMC's responsibilities for considering the merits of a new rule proposal. The AER as a regulator and AEMO as the executive operator (both DataLAC members) are structurally designed to be functionally independent from the AEMC's decision-making powers to 'provide for institutional separation of powers and responsibilities'.[7] Furthermore, the AEMC will be part of DataLAC and therefore cognisant of the Data Strategy, its direction and the policy principles underpinning it. If DataLAC does identify issues with a proposed new rule, these should be raised via ordinary public consultation processes so all stakeholders are privy to the concerns and can be balanced against other considerations.

The AEC looks forward to continuing working with the ESB to develop its Data Strategy and ensure the energy sector maintains pace with growing digitalisation.

Any questions about this submission should be addressed to Rhys Thomas, by email to Rhys.Thomas@energycouncil.com.au or by telephone on (03) 9205 3111.

Yours sincerely,

Ben Barnes
General Manager, Retail Policy

[7] Rhys Edwards RDME Consulting, 'Review of Energy Security Board', Department of Industry, Science, Energy and Resources, Commonwealth of Australia, June 2020, p13.

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Melbourne 3000
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