

19 August 2022

Energy Security Board  
Level 15, 6 Castlereagh St  
Sydney NSW 2000

Submitted via email to: [info@esb.org.au](mailto:info@esb.org.au)

Dear ESB Team,

**ESB Data Strategy – Initial Reforms Consultation Paper**

PLUS ES welcomes the opportunity to provide feedback to the ESB’s Consultation Paper – Data Strategy Initial Reforms.

PLUS ES is a registered Metering Co-ordinator (MC) and an accredited Metering Provider (MP) and Metering Data Provider (MDP) in the National Electricity Market (NEM). Our skilled, workforce provides metering services across Australia. Our customers range from small residential customers through to Australia’s largest manufacturers and mining operators.

We acknowledge that data access is important and required for the electricity industry. We support conceptually the provisioning of data to bodies that have a role in developing or administering energy policy or regulation or are involved in research and development. As a competitive service provider we have reservations that the proposed initial reforms have the potential to negatively impact our ability to earn a return on our investment to implement the infrastructure to collect, administer and disseminate data to the market including Australian Energy Market Operator (AEMO). Our feedback has been noted below for your consideration:

- The contestable metering market drives competitive pricing. A large portion of the data held by AEMO is provided by contestable parties and this volume will continue to grow. Consideration needs to be given to the contestable/competitive model and ensure that the reforms are equitable.
- The Executive Summary of the Consultation Paper<sup>1</sup> states: “...*initial reforms are designed to remove regulatory barriers and enable effective access to existing data...*” and “...*addressing a number of existing data access challenges, while engagement regarding*

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<sup>1</sup> ESB Data Strategy – Initial Reforms Consultation Paper, Jul 2022, Executive Summary page 5

*the development of more enduring and fit for purpose energy data regulatory framework can commence with stakeholders”.*

The proposed reforms focus on removing barriers for one participant, AEMO, and expanding the regulations to include all data. Today’s scope of data includes market settlements data, National Metering Identifier (NMI) standing data, Distributed Energy Resource (DER) data, protected and commercial sensitive data. A logical assumption is that the scope of this data will expand as technology progresses and the industry need for data sharing increases. An updated regulatory framework to remove the current barriers which applies to *all* data providers, would enable the effective access to existing data whilst the proposed alternative has the potential in creating a data sharing monopoly.

- PLUS ES does not support the proposal that enables AEMO to provide protected data. This has the potential to create a risk to the industry from several aspects such as privacy, network security, commercial sensitivity etc. Protected information<sup>2</sup> is defined as information that is: (1) given to AEMO in confidence; or (b) given to AEMO in connection with the performance of its statutory functions and classified under the Rules or the Regulations as confidential information. The Rules define confidential information as “information which is or has been provided to a Registered Participant or AEMO under or in connection with the Rules and which is stated under the Rules, or by AEMO, the Australian Energy Regulator (AER) or the Australian Energy Market Commission (AEMC), to be confidential information or is otherwise confidential or commercially sensitive. It also includes any information which is derived from such information. Per the National Electricity Law (NEL) definition of “protected information”, this will include anything given to AEMO under the Rules that is treated under the Rules as “confidential information”.
- Additionally where information collected in a market information instrument meets the definition of protected information, it is unclear as to why there is a requirement for AEMO’s use of this information to be exempt and should not be subject to the Law, Rules and Regulations. For this reason, we do not support the proposed amendments to section 53D which deletes references to the Law, Rules or Regulations.

The explanatory note<sup>3</sup> says that “it is often unclear whether particular rules specifying a purpose for collection or use may implicitly override AEMO’s right to use information”. If that is the case, then the solution should be to address that lack of clarity in particular rules, rather than removing **all** restrictions on AEMO’s use of information under the Law, Rules

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<sup>2</sup> Defined in section 54 of the NEL

<sup>3</sup> ESB Data Strategy – Initial Reforms Consultation Paper, Jul 2022, AEMO’s Right to Use Information page 21

and Regulations. It should also be noted that section 53D of the NEL is just focused on information collected by AEMO under a market information instrument – it is saying that this information may be used for any purpose connected with AEMO’s statutory functions, subject to the Law, Rules and Regulations. It is unclear how this could be “overridden” by another rule specifying a purpose for collection.

- PLUS ES does not support the expanded ‘catch-all’ definition of Class A bodies, as it is unnecessarily broad. As framed on page 10 of the Consultation Paper, the ‘catch-all’ definition would extend to a very wide range of public bodies. The definition does not require a body to have any role in developing or administering energy policy or regulation. Indeed most of the bodies caught by the definition would likely have no role in the development or administration of energy policy or regulation, and no need to access the protected information.

The only restriction on a recipient body’s use of protected information (aside from any specific restrictions imposed by AEMO) is that it may only use the information “for any purpose connected with the performance of the functions, or the exercise of the powers, of the person or body”. It is also unclear why such a broad catch-all definition is needed, when the NEL allows additional bodies to be prescribed by regulations.

- PLUS ES has been successful in negotiating agreements with third parties requesting data such as those included in the definition of the Class B bodies. We do not support the creation and inclusion of Class B bodies as data recipients of AEMO data. We do recommend that the barriers which have been identified as impacting one’s ability to request and/or provide data be removed to make the process of data provisioning more efficient and data more accessible.

We also do not support the additional definition of ‘prescribed bodies’ as the term is too broad and has the opportunity to crowd out private commercial agreements for data provisioning, including but not limited to derivative and value-added works.

- PLUS ES believes the more equitable and less controversial process to prescribe additional bodies as Class A bodies would be via regulations and not via a Ministerial Order process.
- Whilst the Consumer Data Right (CDR) requires the customer to give consent for the sharing of the data – the same does not apply to these reforms. In fact the data can be shared, and neither the market participants, nor the customers at site will be aware. De-identified data could become identifiable if enough data sets are provided, giving rise to potential security risks.

For the reasons mentioned above, PLUS ES does not support:

- The removal of all restrictions on AEMO’s use of information under the Law, Rules

and Regulations; and

- Recipients of AEMO data (protected or otherwise) to have the right to make subsequent disclosures.
- Cost recovery for AEMO – Due diligence is required to ensure enablement for AEMO to be remunerated for the data provisioning services especially via business as usual costs, does not result in market bodies/participants being charged multiple times. For example, participants/market bodies are already paying directly or via commercial agreements for the provisioning of the metering data to AEMO.
- In the Consultation Paper<sup>4</sup>, it is noted that KWM has undertaken a range of workshops and bilateral engagement with stakeholders. PLUS ES queries whether contestable MCs/MDPs were stakeholders of such engagements.
- PLUS ES support an alignment with the AEMC Metering Framework Review determination with respect to metering data, privacy, and consent in data exchange. The reforms proposed in this Consultation Paper seem to be inconsistent with policy intent and the customer implications identified in the AEMC Review. We are confident if regulations were amended to remove the existing barriers hindering data accessibility, then data could be shared without the extreme ‘futureproof’ measures and amendments proposed.

PLUS ES would welcome further discussions in relation to this submission. If you have any questions or wish for further discussion, please contact Helen Vassos on 0419 322 530 or at [Helen.vassos@pluses.com.au](mailto:Helen.vassos@pluses.com.au).

Sincerely,



**Jason Clark**  
Executive General Manager

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<sup>4</sup> ESB Data Strategy – Initial Reforms Consultation Paper, Jul 2022, Introduction- Scope and approach page 6