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05 May 2023

Response to the Data Strategy Initial Reforms Draft Legislation Consultation Paper

AGL Energy (**AGL**) welcomes the opportunity to respond to the Energy Security Board's (**ESB**) Consultation Paper on the Data Strategy's (**Strategy**) Initial Reforms Draft Legislation.

AGL is one of Australia's leading integrated energy companies and one of the largest ASX listed owner, operator, and developer of renewable generation. AGL is also a significant retailer of energy and telecommunications with 4.3 million customer accounts across Australia. AGL supports an energy market system that empowers consumers to take control of their energy consumption and costs.

We recognise the importance of data in an energy market undergoing significant transformation driven by climate change and the growth of the digital economy. Access to data is crucial in supporting informed decision-making for consumers, policymakers, and businesses. However, there are key aspects of the overall Data Strategy's implementation to be reconsidered that are outlined below. This includes what additional provisions will be required to provide assurance to both industry and the end customer that data is shared in an appropriate, cost effective and efficient manner.

In principle, we support the intention of this reform to remove regulatory barriers and enable more effective access to existing data. However, we recommend that the ESB look to ensure higher levels of communication and stakeholder engagement throughout the reform effort. Active engagement with industry will be key in ensuring that we maintain community trust and social licence in the digital age.

Implementation of the Strategy

A key function under the Initial Reforms that AGL advocated for, is a public register/data log of requests and decisions which AEMO would maintain. We believe a public register is an essential component of the establishment of any data delivery model to support consumers' confidence and transparency in how their data is being shared by AEMO and used by public officials and research institutions. Nevertheless, this consultation paper does not mention how this feature would be delivered, or any of the other non-legislative controls.

The Finkel Review regarded a Data Strategy as a critical governance requirement in the context of rapid change and digitalisation in the market. Following this, the ESB outlined that the Data Strategy was intended to be an ongoing governance approach to address barriers and build capabilities associated with data reform in the energy sector. The ESB has also outlined that they recognised that data reforms must be ongoing as digitalisation and innovation continue to evolve data needs. Therefore, implementation of the Data Strategy is based on a phased, iterative approach.

However, an overarching view as to how the Data Strategy is being implemented, and how efficiencies in data access is being achieved is unclear. While consultation papers have been released on individual elements of the Strategy, there has been no communication of progression and/or direction of the Strategy since the Energy Ministers endorsement. The ESB has taken a piecemeal approach with no clear or well communicated view as to how each piece of reform fits within the broader reform effort. Consequently, it is also unclear how the ESB is working to pursue and take account of complementary reform efforts in a way that could minimise cost to consumers and regulatory burden overall.



In all reforms being pursued under the Strategy there is an opportunity to utilise the New Energy Data Principles to ensure a clear and consistent approach for data sharing is taken and access is aligned to statutory functions. We recommend that throughout the implementation of recommendations under the Data Strategy, all reforms be assessed against the principles. These assessments should be clearly outlined and shared with stakeholders in consultation and issues papers as to how they are being met.

Maintaining community trust and social licence in the digital age

Importantly, AGL believes a robust cost benefit analysis must be undertaken to ensure energy consumers are the ultimate net beneficiaries. In an energy cost constrained environment that has and will have impact on broader cost of living implications, we need to ensure reforms are well targeted and do not unnecessarily add costs to end users without any commensurate or positive benefits.

For example, implementing system changes for data reform have recently proven costly, even when estimates have been made. This is evidenced in the blowout to the original cost estimates for the Consumer Data Right implementation in energy.¹ Regulatory changes were required to help AEMO manage its implementation costs, while the ACCC has granted exemptions to industry, partly to help smooth higher than expected costs.²

AGL supports the Australian Energy Council's position that there are clear risks these Initial Reforms will lead to material costs being passed on to retailers and, ultimately, customers. Granting AEMO the power to perform what is effectively an accreditation function on data requesters is a significant resource commitment, and one AEMO has stated 'will require substantial administrative support'.³ For some comparison, the Consumer Data Right designates the ACCC for accreditation and data requesters must undergo a long and expensive application process.

Additionally, AGL recommends that the ESB provide a clear assessment to the current cyber and privacy environment in delivering this reform. In the current digital environment community trust and social licence in new applications of technology and data sharing has been challenged by cyber incidents and data breaches. The Productivity Commission recently noted that community trust 'is critical for future uptake, as businesses and governments need to maintain their social licence to deliver digital and data-enabled services'.⁴ The ESB should maintain a view as to how we continue to build community trust, which in turn builds the social licence energy market participants require to deliver digital and data related services, being critical to the sector as we drive forward in the energy transition.

If you have any queries about this submission please contact Emily Gadaleta, Regulatory Strategy Manager at egadaleta@agl.com.au.

Yours sincerely,

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¹ https://oia.pmc.gov.au/sites/default/files/posts/2020/12/energy_sector_consumer_data_right_-_independent_review.pdf

² https://treasury.gov.au/sites/default/files/2021-04/c2021-168954-cdr_design_paper_peer_to_peer.pdf

³ <https://www.datocms-assets.com/32572/1657767094-20220714-esb-data-strategy-initial-reforms-consultation-paper.pdf>

⁴ Productivity Commission, [5-year Productivity inquiry: Australia's data and digital dividend](#) (Interim Report, August 2022).