

18 August 2022

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

By email: info@esb.org.au

Dear Ms Collyer,

Re: Energy Security Board Data Strategy - Initial Reforms Consultation Paper

Thank you for the opportunity to comment on the Energy Services Board's (ESB) *Data Strategy- Initial Reforms Consultation Paper (Initial Reforms)*.

The Energy and Water Ombudsman Victoria (EWOV) is an industry-based external dispute resolution scheme that helps Victorian energy or water customers by receiving, investigating, and resolving complaints about their company. Under EWOV's Charter, we resolve complaints on a 'fair and reasonable' basis and aim to reduce the occurrence of complaints¹. We are guided by the principles in the Commonwealth Government's Benchmarks for Industry-based Customer Dispute Resolution². It is in this context that our comments are made.

1. What is the appropriate scope for Class A Bodies?

The definition of Class A bodies should encapsulate organisations that have prescribed statutory functions similar to the Australian Energy Market Operator (AEMO) and have the ability to enforce privacy and secure protection of any data disclosed. 'Class A' should include bodies that will make valuable use of any data transferred to them. As outlined below EWOV meets these criteria.

It should be acknowledged that there is merit in defining EWOV and other ombudsmen schemes as 'trusted bodies'. Not only would our organisation receive great benefit from having access to AEMO data, as outlined below, EWOV would also have the capacity to ensure its protection. Further, as outlined in EWOV's privacy policy we have the means to securely protect the data from 'misuse, loss or unauthorised access, modification or disclosure'³. EWOV takes reasonable steps to ensure data security by archiving data off our production systems after a set period of time.

¹ See Clause 5.1 of EWOV's Charter: <https://www.ewov.com.au/files/ewov-charter.pdf>

² See EWOV's website: <https://www.ewov.com.au/about/who-we-are/our-principles>

³ Energy and Water Ombudsman, Privacy Policy, January 2019, p. 8,
https://www.ewov.com.au/uploads/main/privacy_policy.pdf.

Efficiency

Of note, EWOV has previously been in discussions with AEMO in an effort to increase the availability and quality of data we can access. In August 2019 EWOV approached AEMO to consider the possibility of gaining further access to Market Settlement and Transfer Solutions (MSATS) and meter data to assist with consumer disputes. Currently, EWOV can only see limited data related mostly to market transfer and history/ connections and disconnections. There is substantially more data that we do not have access to. At the time of the request EWOV was seeking meter data from MSATS rather than relying on the energy retailer/distributor to provide it which can be a 7-14 day process. This would allow for purity of data and improvements in process (benefitting the provider, the customer and EWOV), as EWOV would be able to efficiently transfer the data directly. Discussions were paused (and as yet to be recommenced) due to the impending introduction of the consumer data right.

The lack of direct access to this data not only hinders our ability to provide effective dispute resolution but it leads to delays in obtaining the relevant facts of a case which in turn results in prolonged cases and penalties for retailers. Further, this means that when we require this data, we must request it from the energy businesses who ultimately will provide screenshots of the MSATS data in relation to the particular customer in question. The operability of these screenshots is naturally limited and it is our understanding that MSATS can only provide data for a specific time period. If EWOV could have direct access to MSATS data as well as visibility of individual data streams over a prolonged period, it would facilitate greater functionality and use of the information. This would include, for example, the separate billable data streams for general consumption and controlled load or solar. We would be able to see such data relating to why a particular transfer has been delayed, why it did/ did not occur and live NEM 12 data to assist with metering issues and related complaints.

Allowing ombudsman schemes to obtain AEMO data would assist with dispute resolution, as well as reduce issues around data transparency and future proof gaps in consumer protections. We note that although the general scope of AEMO data has been outlined in the consultation, the specific scope of the data available still remains unclear. The above-mentioned of separate data streams is a good example of this, although this would be useful for EWOV to access, we are unsure whether AEMO has access to this data or the ability to share it with us.

Benefit to consumers

Ensuring that ombudsmen schemes have access to consumer data to assist in providing clarity and transparency in dispute resolution will mean we are able to fulfil our role more effectively as an impartial dispute resolution body. As new energy services become more prevalent there will inevitably be additional consumer issues arising that access to data will assist in alleviating. For example, as Distributed Energy Resources (DER) are further integrated into the customer experience, functional issues are likely to arise with Electric Vehicles, Home Energy Management Systems and Virtual Power Plants (VPPs), as are their integration with the grid. Customers will likely be exposed to misleading

marketing, high-pressure sales and potential meter related issues and other issues outlined in our Charging Ahead⁴ report.

Beyond a dispute resolution perspective, having greater access to wider data to support ombudsman's data analytics would also be beneficial. EWOV and other ombudsmen schemes are major data holders and possess a wide array of consumer related data. However, as our data is collated directly from consumer complaints and Investigations there can be gaps in its scope, for instance complaints that are out of our jurisdiction are usually a result of the type of technology or service in question, or whether the business is a member of EWOV⁵. Data is not captured for those out of jurisdiction complaints, thus creating gaps in insights into the market and the customer experience. These gaps can be supplemented by data from AEMO such as any that profile the location of services, the business involved such as solar installers or aggregators and if relevant, where faults lie within installations. All this information could support valuable customer mapping⁶ that we engage in to illustrate and inform meaningful improvements in the sector.

2. Should Class A Bodies include entities that already have their own data collection powers?

Yes, although EWOV collects important customer data the scope of it is limited. EWOV only has the ability to collect customer data in relation to complaints received. There is a significant data related to complaints, not currently collected, that could assist in the resolution of individual cases or enable improvements across the dispute resolution process. EWOV would also be able to use data from AEMO for the purpose of predictive modelling and forecasting. This type of data would be beneficial from a policy perspective but also to assist in the identification of systemic issues.

A few examples of data that would provide meaningful use for EWOV now and into the future are outlined below.

Meter data

There is currently limited availability of access to meter data. Improved access for EWOV would aid our dispute resolution processes and position us to resolve emerging energy related disputes. Additionally,

⁴ Energy and Water Ombudsman Victoria, *Charging Ahead*, p. 20

https://www.ewov.com.au/uploads/main/Reports/charging_ahead_report_release_june_2020.pdf.

⁵ EWOV's jurisdiction: EWOV is not able to resolve a complaint if the party implicated is not a member. For example, if a complaint relates to a solar installer then it would fall out of jurisdiction (OOJ). However, if the implicated party is a member of EWOV i.e., a licensed retailer/ distributor then we would be able to assist the customer with the dispute. Complaints can often present to EWOV as within jurisdiction but can be later identified as outside an EWOV's member's control. If for instance, a product issue was OOJ, the complaint would be referred to VCAT or CAV. (See Energy and Water Ombudsman Victoria, *Charging Ahead Report*, June 2020, p 20.)

⁶ Energy and Water Ombudsman, *EWOV Solar Customer Journey Map*, <https://www.ewov.com.au/reports/ewov-solar-customer-journey-map-april-2022>.

access to MSATS data could provide transparency in relation to transfer disputes – for example, we would be able to see why a transfer has been delayed or why it has been refused or didn't occur.

From a customer mapping perspective, having this data would further allow ombudsman schemes to develop a comprehensive understanding of common billing/metering issues experienced by customers, customer history, location and number of meters. In the future, if we were to consider expanding our jurisdiction to include wider complaints related to new energy services, having the data to exemplify the consumer protections gaps would assist in informing this decision.

Electric Vehicles

Another example of a new energy initiative that requires more data visibility is Electric Vehicles (EVs). Although Australia's uptake has been slow there is undeniable growth in the sector with EV sales tripling since 2020 with 20,655 last year⁷. If complaints related to EVs were to suddenly increase at EWOV we may not have the relevant meter data, beyond the bill as provided by the retailer, to be able to assist. This is particularly relevant if a separate meter is installed behind the grid connected meter (as proposed through Flexible Trading Arrangements). Further to this, should we receive complaints about charging stations that are out of order or faulty, having data mapping of the location of charging points would assist with resolving these complaints. This would assist on an individual scale but could also allow EWOV (and others) to map and monitor patterns with consistently faulty stations.

Distributed Energy Resources Register/ Virtual Power Plants

Access to data is not only important to our dispute resolution process, but as discussed in EWOV's VOICES report⁸, 'consumers and regulators need to be able to access and assess the data that is being used'⁹. Much of the participant feedback in EWOV's VOICES report raised doubts as to the capacity of the regulatory regime to ensure fairness and accountability in such complex domains¹⁰. For the integration of emerging technology to reach its potential and be embraced by the consumer this also relates to data. For example, the Distributed Energy Resources Register (DERR) will hold important data that will support a streamlined implementation of DER services for customers. The register, which sits with AEMO, holds information regarding installation of solar batteries which is currently collected by the distribution businesses. As EWOV does not currently have much visibility in relation to solar installers or the installations themselves, having access to this data will assist our understanding of these complaints and our understanding of the solar customer journey¹¹. Although it is currently unclear the exact scope

⁷ Electric Vehicle Council, *EV sales boom presents chance to capture serious electric benefits, if government act now*, <https://electricvehiclecouncil.com.au/ev-sales-boom-presents-chance-to-capture-serious-electric-benefits-if-government-acts-now/#:~:text=The%20Electric%20Vehicle%20Council%20has,2020%20to%2020%2C665%20in%202021.>

⁸ Energy and Water Ombudsman, VOICES Report, <https://www.ewov.com.au/uploads/main/Reports/Other-reports/EWOV-VOICES-report.pdf> p. 75

⁹ Above.

¹⁰ Above.

¹¹ Energy and Water Ombudsman, *EWOV Solar Customer Journey Map*, <https://www.ewov.com.au/reports/ewov-solar-customer-journey-map-april-2022.>

of information within the DERR, having access to date of installations, relevant paperwork, the details of who undertook the installation, the type of installation installed, relevant serial numbers, inverter and manufacturer type, if available, would also greatly enhance our ability to investigate and resolve disputes.

With Virtual Power Plans (VPPs), complaints often relate to the length of contracts, what rates were promised in the quotes/contracts, and termination fees. All these aspects are information we currently request from the retailer or distributor when investigating solar complaints. In the future, if we were to expand our jurisdiction to batteries, we would also require information of this scope. Having direct access to information uploaded by solar or DER installers would assist in future proofing and streamlining our ability to assist customer disputes involving DERR and VPP related complaints.

3. Should Class A Bodies have a right to make subsequent disclosure?

EWOV does not intend to make subsequent disclosure of information we receive from AEMO that is outside our Charter responsibilities. Under Clause 4.6 of our Charter, we have the power to ‘give confidential reports on any subject to participants, the Board and the Essential Services Commission’¹². As outlined above, we would be using data disclosed to assist us with specific consumer disputes. Outside of additional disclosures to the Board and the ESC or de-identified data mapping, we will not use the data to make subsequent disclosures.

4. Do you have any concerns with disclosure to Class A Bodies that have not been considered above?

EWOV emphasises that privacy of customer information needs to remain a priority under the reforms. Significant harm could result through misuse of personal information. As outlined above, privacy and consumer protections are essential factors to develop public confidence. There is a strong perceivable benefit in greater flexibility of use of consumer data to drive reforms and identify areas of underperformance in the sector. As outlined, the issue of privacy should not be an issue in the context of EWOV. However, the information our organisation would be requesting is content we would be receiving from the provider or retailer directly. From our perspective, obtaining information through AEMO directly would be simply streamlining the process.

13. The current intention is to only amend AEMO’s data provisions. We are not amending AEMC’s or AER’s data related provisions, as they involve legislation outside the national energy regime. Is this narrow approach appropriate?

EWOV agrees that any amendments that are made to AEMO’s data provisions should fall in line with any changes being made to the Consumer Data Right (CDR). EWOV supports potential amendments to the National Electricity Law (NEL) and the National Energy Market (NEM) as their jurisdictions currently restrict access to some of these datasets. However, it is necessary to acknowledge that there are notable differences behind the CDR and the Data Strategy in question. The former imposes obligations

¹² Energy and Water Ombudsman Victoria Charter, clause 4.6.

on AEMO and authorised data holders to provide certain data sets for the benefit of consumers while the latter attempts to facilitate data sharing between government bodies, universities, and energy stakeholders.

Yours sincerely



James Lawson
Acting Energy and Water Ombudsman (Victoria)