



15 May 2020

COAG Energy Council
c/o Department of Industry, Science, Energy and Resources
Submitted online to: Energystrategicpolicy@industry.gov.au

Dear Sir/Madam

Submission: Consultation on the Independent review of the Energy Security Board

CS Energy welcomes the opportunity to provide a submission to the consultation on the independent review of the Energy Security Board (**ESB**).

About CS Energy

CS Energy is a Queensland energy company that generates and sells electricity in the National Electricity Market (**NEM**). CS Energy owns and operates the Kogan Creek and Callide coal-fired power stations. CS Energy sells electricity into the NEM from these power stations, as well as electricity generated by other power stations that CS Energy holds the trading rights to.

CS Energy also operates a retail business, offering retail contracts to large commercial and industrial users in Queensland, and is part of the South-East Queensland retail market through our joint venture with Alinta Energy.

CS Energy is 100 percent owned by the Queensland government.

Level of Engagement with the ESB

CS Energy has developed a strong strategic relationship with the ESB, being heavily involved with the ESB's industry engagement for the Post-2025 National Electricity Market Design (**NEM 2025**). CS Energy representatives regularly meet with the ESB's NEM 2025 Project Director to provide input and feedback into the NEM 2025 process.

Additionally, CS Energy's Market Regulatory Manager and Market and Power Systems Specialist are representatives on the following NEM 2025 working groups established by the ESB:

- Technical Working Group;
- Ahead Markets Subgroup;
- Two-sided Markets Subgroup;

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- Resource Adequacy Mechanisms Subgroup; and
- Essential System Services Subgroup.

Response to Consultation Issues

(a) ESB's role in the governance of the system and whole-of system oversight

The NEM was established with clear governance arrangements strictly separating policy, rule-making, regulation and market operations across the market bodies:

- the market rule making and policy advisory role vested in the Australian Energy Market Commission;
- regulation and enforcement vested in the Australian Energy Regulator; and
- market and systems operations vested in the Australian Energy Market Operator.

Following the Finkel Review¹, the ESB was established to provide strategic whole-of system oversight to the COAG Energy Council, in addition to the specific task of implementing the recommendations of the Finkel Review. More recently, the COAG Energy Council has tasked the ESB with a wide range of initiatives which overlap with the existing roles of the market bodies.

With no clear governance arrangements having been put in place for the ESB at the time of its establishment, including vis-à-vis the market bodies, this has created uncertainty as to the responsibilities of the ESB and markets bodies within the existing NEM governance structure. As a result, the established process for policy development and rulemaking has been circumvented. CS Energy considers the NEM's independent, open consultation process to policy development and rulemaking delivers reforms which are merited and cost effective. Ultimately, this benefits all stakeholders but most importantly consumers.

CS Energy acknowledges the benefits that can flow from strategic co-ordination of policy initiatives, including common clear objectives for the market bodies in the performance of their respective roles. CS Energy does not however support the recent overreach of the ESB into the roles of the existing market bodies, or market bodies (through their representation on the ESB) performing roles that cross the boundaries established by the NEM's governance structure. Going forward, the ESB's role and governance arrangements must be clarified. CS Energy provides further comments on this below.

(b) ESB's performance

CS Energy's comments in respect of the ESB's performance focus on the design of the National Energy Guarantee (**NEG**) and the ESB's NEM 2025 work.

From establishment, CS Energy considers the ESB has not been appropriately resourced to properly carry out all the tasks and responsibilities allocated to it. Despite this limited resourcing, the process run by the ESB for the NEG design was commendable. The ESB led the process, and addressed its resourcing constraints by engaging consultants and seconding representatives from the market bodies and industry. Importantly, formal arrangements were placed on the secondees to ensure they reported to the ESB in their

¹ Finkel, A. et al., *Independent Review into the Future Security of the National Electricity Market: Blueprint for the Future*, June 2017

secondment role. The ESB co-ordinated the work and, as stakeholder consultation was led by the ESB, there was consistency in the consultation process. Further, the ESB genuinely sought industry experience, with this insight being reflected in the design reiterations.

The design of the NEG was a discrete targeted market reform. In contrast, NEM 2025, together with the other market re-design work underway and planned by the market bodies is substantial, with critical strategic decisions being made over the next 12-24 months on the future market design. The complexity of the reforms underway dictate a substantial level of resourcing.

CS Energy considers the ESB has not been adequately resourced to effectively lead and co-ordinate this work, and the quality of the process has diminished despite the efforts and professionalism of the ESB. Consequently, there is a lack of overall consistency and co-ordination in the process. Given the interrelated nature of the different initiatives, CS Energy would expect the ESB to be given the capability to consider market reform in an objective and holistic way. This would allow the ESB to lead and provide a clear co-ordinating message in respect of not only the NEM 2025 work, but also the market re-design work being undertaken by the market bodies.

Because of the resourcing constraints, CS Energy also considers the quality of the consultation has diminished and in some instances, has been non-existent. To date, there has been no consultation to properly interrogate where changes to the NEM may be needed or to assess what the most appropriate reforms are likely to be. Further, industry was not consulted on key decisions put forward to the 23rd COAG Energy Council meeting, being the review of the reliability standard and development of market designs for two-sided markets and ahead markets. Neither the ESB, or the market bodies, have the market experience that industry has. A defining characteristic of the NEM's approach to policy development and rulemaking is that it draws on the collective knowledge and experience of all stakeholders.

(c) Future role of the ESB

CS Energy supports the ESB's role to provide whole-of-system oversight to the COAG Energy Council on energy security, reliability and affordability in the NEM, including strategic co-ordination to the market bodies. The ESB's functions should not however overlap with the existing roles of the market bodies; CS Energy supports the continued separation of the governance arrangements across the market bodies, with rulemaking remaining the remit of the AEMC.

CS Energy considers clear governance arrangements should be established for the ESB. Governance issues which need to be addressed include the following:

- The ESB's objectives and functions be clearly defined, including clarity vis-à-vis the roles of the existing market bodies.
- The ESB's governance arrangements be set out in legislation, with the ESB given legislative authority to carry out its objectives and functions.
- Membership of the ESB be expanded to include representation from industry and consumer groups (with stakeholder representatives equalling the number of market body' representatives).

- The ESB be adequately resourced, particularly to carry out the NEM2025 work so that it is not relying on the market bodies to perform roles which sit outside their existing responsibilities.
- The policy development process for NEM2025 be defined, a key feature being an open consultation process. As noted above, CS Energy considers the rulemaking process should remain the remit of the AEMC.

CS Energy does not have a definitive view as to whether the ESB should be wound up following implementation of NEM 2025. CS Energy suggests a second independent review of the ESB be undertaken following implementation of NEM 2025. While NEM 2025 will result in changes to the market design to address current opportunities and challenges, electricity markets are always transitioning. Post implementation of NEM 2025, the market may need to respond to different opportunities and challenges. Consequently, a strategic oversight and co-ordination role may always be required.

Please contact us if you would like to discuss this submission further.

Yours sincerely



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