

13 May 2020

Mr Rhys Edwards
Chair, Independent Review of the Energy Security Board
C/- COAG Energy Council Secretariat

By email: energystrategicpolicy@industry.gov.au

Dear Mr Edwards,

Independent review of the Energy Security Board

Thank you for the opportunity to provide a submission to the Independent Review of the Energy Security Board commissioned by the Council of Australian Governments Energy Council, and for the recent opportunity to talk to your review team.

Energy Networks Australia is the national industry body representing Australia's electricity transmission and distribution and gas distribution networks. Our members provide more than 16 million electricity and gas connections to almost every home and business across Australia.

The Energy Security Board has played an invaluable role over the past three years in assisting the COAG Energy Council, energy market bodies, the industry and customers work through a range of complex and urgent strategic energy policy issues at a time of significant transformation and challenge.

It is important to recognise that the strong leadership of the Energy Security Board's Chair, Dr Kerry Schott AO, has made a critical contribution to this record of performance. Her skills, judgement and capacity to ensure strategic alignment and sustained urgency in tasks undertaken by the ESB has proved a key part of its success to date as a body.

Scope of responsibility and implementation of Finkel Review recommendation

Energy network businesses supported a single body being given clear implementation coordination and reporting functions around the recommendations of the Finkel Review.

The ESB has effectively carried out this part of its function, which has ensured most of the recommendations of the Finkel Review have been actively taken forward and implemented. Provision of a single body as a focal point for this task has provided critical ongoing impetus to responsible implementation agencies and ensured accountability for timely action.

Whole of system oversight and coordination of market body actions

The Energy Security Board has played an unmistakably beneficial role in providing oversight to related market body activities and initiatives and coordinating actions.

The regular preparation and release of the *Health of the National Electricity Market* reports have likewise provided an important single point of reference for policy

makers, the energy market and stakeholders of key emerging areas of risk and some consideration of the effectiveness of mitigation strategies. This post-implementation 'assessment' phase of past policy or regulatory interventions, and forward-looking assessments of emerging risks were key gaps in previous arrangements.

There is still further progress to make in this area in ensuring that a focus on new broad market design initiatives are adequately informed by realistic and comprehensive post-reform assessments of the actual impact on customer outcomes of past reforms.

The Energy Security Board should insist, as part of its coordinating function, that customer outcome-focused consultation and robust cost-benefit assessments form part of each market design process it oversees.

This evidence-led policy-making approach should also apply to initiatives developed or undertaken by the ESB itself. These cover a range of regulatory and market development questions and it is essential they are predictably initiated, coordinated with existing processes, and feature strong stakeholder engagement and input. Examples of this include the current Post 2025 and Two-Sided Markets reviews.

Governance of the system and membership of Energy Security Board

The ESB was deliberately established as a temporary and focused body with no specific legislative basis or permanent staff. This makes it a unique part of an energy market institutional environment, in which statutory agencies pursue legislative objectives based on established functions and accountabilities.

To date, and especially under its current leadership, this has proved an effective basis for the ESB's existing tasks of providing oversight as well as coordinating initiatives and actions from the market bodies. Beyond the short term (for example, 1-2 years), however, it is not clear that these existing tasks will necessitate a permanently funded, statutory agency.

There is evidence – for example, from previous reviews of the governance of the energy sector – that adding to a relatively 'crowded field' of existing market bodies and the permanent overlaying of an additional statutory body across the three main existing bodies will not be of clear benefit to customers.

Other cooperative models - supported by clearer ongoing guidance on role responsibilities from the COAG Energy Council - should represent a less cluttered, lower cost and more effective pathway in the future. Of note the AEMC, AER and AEMO created a Market Bodies in June 2017, shortly before the ESB was created.

It is critical that the ESB and its member bodies are, and are seen as, independent. A specific consideration the review may wish to take into account in forming future recommendations in this area is the different structures and roles of current ESB member bodies. The AER and the AEMC are both wholly statutory bodies, guided by legislative objectives and funded through normal budget appropriations channels of Commonwealth, State and Territory governments.

Two distinguishing characteristics of AEMO performing its functions as a member of the ESB is its differentiated cost recovery model, and its own governance structure.

The specific tasks, functions and business development incentives of AEMO means that it may be appropriate to consider clear protocols around where AEMO is offering expert policy advice and, in some areas, restrictions around its role in decision-making on market development issues. This is because AEMO, in some cases, will be a 'beneficiary' of specific choices around creation or operation of markets or control mechanisms. This approach of clear protocols would be consistent with the assigned roles of market bodies in the *Australian Energy Market Agreement*, a division of roles that was reaffirmed in the *Vertigan Review of Energy Market Governance*.

Defining AEMO's scope, remit and responsibilities in this context is a critical issue now as the ESB and its members potentially develop new approaches for market operation and distribution and transmission system operation. This is essential where legitimate policy choices exist around the role of centralised or decentralised control, single markets, or distributed (potentially contestable) market creation.

Whilst the costs of the other ESB members are transparent and amenable to public debate and policy decisions, this same process does not occur in relation to the quantum of AEMO's costs nor their recovery via sector participant fees. Greater clarity in this area will increase industry and customers' confidence that the benefits of the many reforms underway across the sector clearly outweigh the costs.

If you wish to discuss any aspect of these issues, or have any additional queries, please feel free to contact Garth Crawford, General Manager - Economic Regulation (gcrawford@energynetworks.com.au).

Yours sincerely,



Andrew Dillion
Chief Executive Officer