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ACCIONA Energy's Submission to the Consultation: National Energy Guarantee Draft Detailed Design

Who is ACCIONA?

ACCIONA Energy ("ACCIONA") is one of the world's largest renewable energy independent power producers' with operations covering the development, construction, long term ownership and operation of renewable energy assets across 16 countries. ACCIONA has over 10,000 megawatts of renewable energy assets covering a range of technologies including hydroelectricity, wind, solar PV, solar thermal and biomass.

In Australia, ACCIONA has built and owns four wind farms: Waubra Wind Farm, Gunning Wind Farm, Mt Gellibrand and (in joint venture) Cathedral Rocks Wind Farm totalling 437MW. Additionally, ACCIONA constructed the Royalla Solar Farm in the ACT for Fotowatio Renewables Ventures.

The ACCIONA Group operates globally and is also active in infrastructure and water sectors around the world. To date, ACCIONA has invested more than \$900 million in Australia and employs over 1,000 people.

Introduction

ACCIONA welcomes the opportunity to make this submission on the National Energy Guarantee Draft Detailed Design consultation.

As a participant in the National Electricity Market since 2002, and as a long-term owner, operator and investor in renewable energy assets in Australia and globally, ACCIONA is committed to supporting market and regulatory developments to transition our energy system to a low emission, reliable supply base.

For the electricity sector to reduce its emissions efficiently and at least cost over time, clear, long term policy settings to guide and support long lived investment decisions are needed. This includes a sufficiently ambitious emission reduction targets for the electricity sector.

Through this consultation response, ACCIONA seeks to provide feedback on specific aspects of both the emissions reduction requirement and the reliability requirement.



This submission should be considered in conjunction with ACCIONA's submission made to the *National Energy Guarantee Draft Detailed Design – Commonwealth Elements* consultation process on the 6th July 2018.

EMISSIONS REDUCTION REQUIREMENT

ACCIONA's main comments related to the emissions reduction requirement include:

- the need for transparency in access and information in the emission registry;
- limitations with the proposed allocation process in the registry; and
- the need for the Guarantee – in particular the register – to recognise voluntary or additional emission reduction actions undertaken.

Comments are also offered on the flexibility mechanisms proposed, and compliance and penalty considerations.

Emissions Registry Access

In the interests of market transparency, information exchange and confidence in the efficacy of the emissions reduction requirement, the Guarantee must support transparency and accessibility of registry information for all interested parties.

The ESB propose that the registry should only be accessible by markets customers and generators. Further, the ESB propose that giving registry access to third parties creates a risk that such parties would be able to directly interact in the registry process, outside the scope of the Guarantee.

ACCIONA does not agree with this approach and believes that the suggested risk of access is unwarranted. ACCIONA argues for wider, third party access to registry information to support information exchange and confidence in the Guarantee operation and objectives. Moreover, with the use of suitable access permissions, third party participation in the Registry and the type of information accessible, would be easily managed.

This is consistent with the approach adopted by the Clean Energy Regulator for the REC registry.

The Emissions Registry Technical Working Paper outlines limited information that is proposed to be publicly available. ACCIONA recommends that such information be broader, but also protect commercially sensitive information of both market customers and generators. In particular, ACCIONA does not support the proposal that the registry would disclose each generator's unallocated generation.

Considering this, and the main objectives of the emissions reduction requirement, ACCIONA supports the disclosure of information such as:

- individual market customer load and level of compliance;
- level of any unmatched load at the point of compliance;
- net emission intensity for each market customer;
- market customer's carry forward of overachievement and deferral of compliance;
- exempt loads;
- voluntary actions;
- allocation of embedded generation and rooftop PV; and
- if ultimately permissible under the Guarantee, the level of offsets used.

Methodology for Allocating Generation in the Registry

The ESB proposal in relation to both unallocated generation and over-allocation of generation is potentially unworkable in relation to zero emission generation. This is in part due to the proposed design of the emission requirement not recognising additionality in zero emissions generation allocation beyond the considerations of GreenPower¹.

For example, zero emission generators may have entered into arrangements with parties (not necessarily market customers) for the sale of the 'environmental attributes' of the generation. To require these generators to also allocate the same emission attributes (ie. zero emissions) to another party under the Guarantee may be contrary to pre-existing contractual arrangements and result in double counting.

Unallocated Generation

The ESB propose that any generation and associate emissions not allocated against a market customer's load in the registry (unallocated generation) would contribute to the calculation of the emissions intensity of the residual unallocated generation pool. As explained above, ACCIONA does not support this proposal in relation to **unallocated generation from zero emissions generation** for contractual reasons.

To incentivise liable parties to seek low emission generation allocations to meet the emissions intensity targets - similar to the ESB proposal for deemed emission intensity - ACCIONA proposes that any unmatched load (ie. unmatched with generation) be deemed an emission intensity set at the level of the highest emissions intensity generator in the NEM. As a result, no or insufficient action by a market customer to achieve generation allocations at an appropriate emissions intensity will result in a substantial impost.

¹ Noting that the approach to recognising GreenPower commitments within the Emissions Registry is yet to be adequately defined in the design document

Over –Allocation of Generation

As currently drafted, the ESB propose that any over allocation of generation in the registry be subject to a penalty based on a deemed emissions intensity - set at the highest emission intensity generator. This is problematic for zero emission generation.

The ESB notes that over allocation of generation (particularly zero emission generation) may make compliance with the emissions reduction requirement more challenging for market customers. ACCIONA believes that, in the interests of achieving a lower emission intensive energy supply, and considering the low hurdle the proposed NEG emissions target at 26% of 2005 emission levels represents, liable parties should be encouraged to and be rewarded for achieving lower emission intensity outcomes for their liable loads.

In the absence of a mechanism in the Registry to recognise additionality in emission reductions (beyond GreenPower), ACCIONA strongly recommends that the proposed penalty regime associated with over allocation of generation should only relate to non-zero emission generation.

Additionality

The proposed design of the NEG provides no avenue for consumer led voluntary or additional emission reduction actions to be accommodated, apart from a yet to be defined approach for GreenPower.

ACCIONA proposes that consumer lead voluntary actions to reduce emissions above and beyond legislated targets must not be discouraged in the interests of achieving the necessary emission reductions to support Australia’s Paris commitments.

Moreover, the Guarantee must be designed and be flexible enough to incorporate these additional actions going forward given the increasing interest by businesses in renewable-energy backed Corporate PPAs² and recognising the potential for new, innovative, consumer lead products to come to market in the future.

Similarly, consideration must be given to the additional actions committed to, and in some cases directly funded, by various State Governments to achieve more ambitious renewable energy generation and emission reduction targets in their respective jurisdictions.

On the basis that the Guarantee framework will be designed to recognise GreenPower and will be flexible enough to facilitate EITE exemptions, the same approach should be able to accommodate voluntary and additional emission reduction actions.

² representing additional action to support zero emission generation

ACCIONA strongly recommends that the Guarantee, and in particular the design of the registry, incorporates a mechanism to recognise the voluntary and additional emission reduction commitments made by electricity consumers (commercial, industrial and/or residential) and State Governments. Moreover, the recognition of additionality must be wider than just the currently defined GreenPower products.

Flexible Compliance Options

ACCIONA agrees that there should be some level of flexibility to facilitate compliance with the emissions reduction requirement. In particular, greater flexibility should be afforded to over achievement by market customers of emission reduction targets.

Whilst the ESB proposes a carry forward approach of 60,000 tCO₂-e plus 5% of first year target carry forward allowance, ACCIONA recommends that a higher carry forward allowance % (ie. 10-15%) should be permitted to facilitate greater market liquidity and flexibility to account for differences in year on year generation. A higher limit could also support longer term contracting and investment in low emission generation.

ACCIONA also recommends that the deferral of compliance should be limited to 5%, as opposed to the 10% proposed by the ESB. This is in the interests of providing greater level of certainty and enhancing progressive compliance with the emission reduction target on a year on year basis. ACCIONA agrees with the proposal that the deferral limit should be on a cumulative 2 year basis.

As noted in ACCIONA's submission on the *National Energy Guarantee Draft Detailed Design – Commonwealth Elements* consultation, ACCIONA opposes the inclusion of any offsets within the emissions reduction requirement of the Guarantee. The use of offsets would undermine the investment signals necessary to attract ongoing new investment in the electricity sector, particularly in zero emission generation. This is of particular concern considering the lack of ambition of the current emission reduction target proposed by the Commonwealth.

That said, in the event that offsets were to be allowed under the emissions requirements, no such flexible compliance mechanisms (ie. deferral or carry forward) should be permitted where offsets are used by market customers.

Compliance and Penalties

The ESB notes in the drafted Detailed Design consultation paper that compliance should be enforced in a manner that minimise costs to consumers. ACCIONA believes that the proposed approach to compliance and penalties under the emissions reduction

requirement entails material administrative burden (and therefore additional cost to be borne by consumers), provides a lot of discretion to the Regulator in determining appropriate compliance and enforcement options and/or penalties and is not an efficient, effective or transparent approach to enforcing compliance.

Considering the objectives of the Guarantee, and based on ACCIONA's experience in a variety of other markets, jurisdictions and compliance regimes, ACCIONA proposes that a transparent price based penalty regime (ie. \$/MWh) would provide a simple and transparent approach to compliance in a more efficient manner.

RELIABILITY REQUIREMENT

ACCIONA believes that design elements of the reliability requirement must ensure that there is no reduction in market transparency and liquidity or any restriction that may limit the market's ability to innovate. In particular, ACCIONA's comments below focus on matters pertaining to qualifying contracts rather than the aspects of forecasting and triggering of the reliability requirement or the liable parties.

Qualifying Contracts

ACCIONA agrees with the approach of being non-prescriptive about the types of contracts considered to be qualifying under the Guarantee. Recognising the future for less 'traditional' generation and types of hedging contracts evolving in the market, a key consideration for the qualifying contract framework must be supporting innovation in supply solution and contract forms and features over time.

Firmness Factor

In assessing the qualification of contracts to meet the reliability requirement, the "firmness factor" will be a critical element. Given this criticality, it is important that firmness be considered objectively and accurately and can be considered across a range of contract types, including more bespoke contracts.

Despite this criticality, the current ESB proposal is that liable entities are required to make their own assessment of the "firmness" of contracts by applying a firmness factor.

ACCIONA notes that a wide range of elements may impact on the degree of contract firmness including; generator type, age and maintenance regime of generating equipment, balance of plant age and maintenance and underlying fuel or resource availability including fuel supply contract terms. Further, ACCIONA notes that liable entities may not be best placed to make assessments about the "firmness factor" of

contracts that are backed by physical supply given information asymmetry, and may be inclined to err on the side of higher firmness factors than would otherwise be achievable (given that so doing may diminish their costs of making up reliability shortfalls).

As well, absent guidelines or a standard methodology, the AER envisages that an independent auditor will be required to confirm the appropriateness of the methodology (but not necessarily of the assumptions used). While a standard methodology may emerge over time, the costs of demonstrating appropriateness of methodology will continue to apply to all liable entities.

To avoid both the costs of ongoing audit compliance and the risk of arbitrary application of “firmness factors”, ACCIONA recommends that a firmness factor design methodology be developed through deeper consultation with market participants. With a more detailed methodology, in practice, audits of liable entities’ firmness factors would then be limited to demonstrating compliance with that methodology (rather than demonstrating an appropriate methodology has been applied).

Centrally Cleared Contracts v’s Trade Repositories

OTC markets are opaque and with very limited disclosure of OTC trades, offers limited price discovery and could inhibit assessment of compliance with the reliability requirement.

ACCIONA agrees with the ESB proposal that the use of a trade repository would be a more appropriate approach (then requiring centrally cleared contracts) to maintain liquidity and contractual innovation. The requirement that trades must be registered in a trade repository would assist in enhancing transparency and limit the administrative burden of compliance and enforcement.

That said, it is critical that the repository design itself does not inadvertently exclude any contract types nor cause any limitation in contract design and innovation.

Penalties and Compliance

ACCIONA notes the intent of recovering costs of the Procurer of Last Resort proportionately from non-compliant liable entities, but also note that non-compliant liable entities will be charged “a predetermined proportionate cost per MW of non-compliance”. For clarity, ACCIONA seeks to ensure that all costs of the Procurer of Last Resort be passed to non-compliant liable entities (rather than a predetermined cost be applied) to avoid cross-subsidisation from compliant liable entities.



Thank you for providing the opportunity to participate in this important consultation process on the National Energy Guarantee. ACCIONA would welcome the opportunity to further engage with the ESB to discuss the points raised in this paper.

If you have any questions in relation to our response, please contact Melanie Sutton (melanie.sutton@acciona.com) to discuss further.

Yours sincerely

A handwritten signature in black ink, appearing to read "B. Wickham".

Brett Wickham
Managing Director
ACCIONA Energy Australia