8 March 2019

aurora energy

Dr Kerry Schott AO
Chair
Energy Security Board
By email: info@esb.org.au

Dear Dr Schott

RE: ACCC RETAIL ELECTRICITY PRICING INQUIRY RECOMMENDATION 41 CONSULTATION PAPER

Aurora Energy welcomes the opportunity to provide feedback on the Energy Security Board (ESB)'s Consultation Paper on Recommendation 41 of the ACCC Retail Electricity Pricing Inquiry regarding the expansion of the AER's wholesale market monitoring functions to include monitoring, analysing and reporting on the contract market.

Aurora Energy is a Tasmanian Government owned energy retailer, providing energy services to over 99 per cent of Tasmania's electricity customers. As a stand-alone retailer supplying over 280,000 Tasmanian residential and business customers, Aurora Energy's core focus is on its customers, by creating valued outcomes and providing sustainable returns to the Tasmanian community.

While Aurora Energy is generally supportive of the expansion of the AER's wholesale monitoring functions, it does not support both the expansion of the AER's information gathering powers into financial markets and the imposition of a mandatory OTC trade repository in the NEM to facilitate this. A trade repository would incur significant costs for its establishment and operation, both for the administrator and market participants. As noted in our 2018 submission to the ESB's OTC Transparency in the NEM Consultation Paper[1], these costs will ultimately be passed through to customers for no commensurate benefit, as there is no evidence to suggest that the introduction of a repository to facilitate the AER's wholesale market monitoring function would act to specifically lower prices or provide other benefits to consumers.

The establishment of a mandatory industry OTC trade repository would impose compliance concerns, possible confidentiality breaches and other risks to market participants. Mandatory disclosure may also limit the diversity of innovative products available to efficiently manage market risk.

Aurora Energy's response to the specific questions raised in the Consultation Paper is provided at Attachment 1. If you have any questions regarding this submission please contact Hayden Moore, Regulatory & Policy Manager at hayden.moore@auroraenergy.com.au.

Yours sincerely

Kane Ingham
General Manager Commercial Services

Enclosure:
Attachment 1

[1] Aurora Energy submission dated 19 October 2018.

ATTACHMENT 1

ACCC RETAIL ELECTRICITY PRICING INQUIRY RECOMMENDATION 41
AURORA ENERGY RESPONSE

This submission focuses on the questions posed in the Energy Security Board's (ESB's) Consultation Paper on Recommendation 41 of the ACCC's Retail Electricity Pricing Inquiry. The headings relate to the options for expanding the AER's wholesale market monitoring functions, as described in section 6 of the Consultation Paper.

Aurora Energy has chosen not to answer all questions posed by the Energy Security Board in the Consultation Paper; rather this submission responds to the questions of particular importance and relevance to Aurora Energy and Tasmanian electricity customers.

A . POTENTIAL IMPROVEMENTS TO AER'S INFORMATION GATHERING POWERS

Are there existing constraints on the AER's information gathering powers that could be removed to allow it to effectively monitor the contract markets in both gas and electricity?

Should restrictions imposed under section 18D of the National Electricity Law (NEL) on information gathered under section 28 of the NEL, relating to wholesale market monitoring, be removed or amended? Similarly, should the NEL be amended to allow a regulatory information notice or order to be issued to market participants other than network businesses?

How can the AER's role be designed to be effective while avoiding overlap with the role of the Australian Securities and Investment Commission (ASIC) in contract markets for gas and electricity?

In managing risks associated with being a participant in the National Electricity Market (NEM), market participants may choose to enter into financial instruments (such as derivatives) with counterparties to manage wholesale market risk. These financial transactions may or may not be with a registered participant in the NEM and are already regulated by the Australian Securities and Investments Commission (ASIC) or the Australian Securities Exchange (ASX) in regards to exchange traded instruments.

Aurora Energy is of the view that the AER's general market monitoring role should be to identify issues for further investigation. In the event that an issue of concern is identified, Aurora Energy believes that existing arrangements between the AER and ASIC that allow collaboration between these parties are already sufficient.

An expansion of the AER's information gathering powers to examine possible competition issues within the wholesale energy market would significantly expand the compliance burden on industry. Given the existing oversight role of ASIC and the ASX, Aurora Energy does not believe that the AER's information gathering powers should be expanded into financial markets.

B. TRADE REPOSITORY

Is an OTC trade repository required for the AER to access the information it requires to effectively undertake its wholesale market monitoring function?

Aurora Energy opposes the establishment of a trade repository to support the AER in undertaking its wholesale market monitoring function. As noted in the covering letter, as well as Aurora Energy's

2018 submission to the ESB's OTC Transparency in the NEM Consultation Paper[2], there are several reasons for this.

- **Significant costs for no commensurate benefit** - a trade repository would incur significant costs for its establishment and ongoing operation, both for the administrator and market participants. These costs will ultimately be passed through to customers for no commensurate benefit, as there is no evidence to suggest that the introduction of a trade repository to facilitate the AER's wholesale market monitoring function will specifically lower prices or provide other direct benefits to consumers.

- **Increased risk for market participants** - the establishment of a mandatory industry OTC trade repository will impose compliance concerns, possible confidentiality breaches and other risks to market participants. A key concern for Aurora Energy is maintaining confidentiality of each trade, particularly in jurisdictions where the characteristic of the trade could make it easily discernible as to which counterparties are undertaking particular deals. Reporting of all OTC trades to a central repository will add costs and compliance concerns for every traded contract, with this burden likely to inhibit trading activity as market participants weigh up the benefit of undertaking each transaction versus the disclosure effort and risks associated with having to report it.

- **Stifling of product innovation** - the OTC market has progressively evolved to offer a range of innovative products, and continual evolution of bespoke products should be encouraged so that market risk can be efficiently managed at the lowest possible cost to consumers. There is a risk that the transparency of a mandatory trade repository would act to stifle product innovation due to:

  - confidentiality concerns associated with the transparency of mandatory disclosure, which may limit the diversity of innovative products available to efficiently manage market risk; and

  - potentially limiting market products to those already in existence. By defining the activities that will be subject to mandatory disclosure, it will not be possible to accommodate new products that have not yet been invented. This could act to stifle innovation as market participants would be necessarily be forced to trade only those instruments that were in existence when the repository was created.

Are there other measures which could be implemented instead of an OTC trade repository (e.g. enhanced industry survey such as the AFMA survey) that would enable the AER to effectively undertake its wholesale market monitoring function?

Since ACCC Recommendation 41 was made in June 2018, the Australian Financial Markets Association (AFMA) voluntary survey of OTC wholesale electricity markets has been relaunched. As noted in our 2018 submission to the ESB, Aurora Energy is of the view that time should be allowed for reconsolidation and enhancement of the AFMA survey prior to any consideration of a mandatory trade repository.

The aggregated data reported by AFMA provides a useful benchmark for helpful, anonymous statistics on the state of the market. With improvements to the existing report, including provision of additional aggregated data where considered necessary, improvements in the availability of wholesale market data (including OTC liquidity and other market information) can be made without exposing market participants to unnecessary compliance costs, possible confidentiality breaches and other risks.

[2] Aurora Energy submission dated 19 October 2018.

If a repository is established, should it be a specific purpose repository for reporting energy OTC contracts, or could an existing trade repository be used?

In the event that the NEL were to be amended to require the reporting of OTC trades to a central repository, Aurora Energy submits that an existing platform should be leveraged rather than establishing a new repository. This would minimise the administrative and reporting costs incurred by market participants who are already reporting through certain existing trade repositories (for example the renewable energy certificate registry).

Aurora Energy is also of the view that, should a mandatory trade repository ultimately be established, information should be updated and published annually. A more frequent reporting schedule would increase the costs of implementation for both market participants and the administrator of the repository, which would ultimately be passed through to customers for no foreseen commensurate benefit.

Should the AER also be able to access data on exchange traded contracts (ASX and other) to a similar level of detail to that which would be reported in a trade repository?

Aurora Energy does not support the AER having access to confidential information about market participants. Provision of highly sensitive information to an energy market institution lends itself to a significant risk that that it will be used in a manner other than that for which it is intended, or that confidential information will be inadvertently released. Either outcome could have significant financial implications for individual market participants, including retailers.