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### **National Energy Guarantee, Draft Detailed Design Consultation**

Delta Electricity welcomes the opportunity to contribute to the Energy Security Board's (ESB) deliberations on the detailed design of the National Energy Guarantee. Delta owns and operates the 1320MW Vales Point power station in NSW and has a retail licence to sell electricity to large customers. Delta has operated coal and gas fired generating plant in the National Electricity Market (NEM) since its start in 1998 and is an active participant in both the electricity and gas trading markets.

Delta supports much of the detailed design proposed by the ESB and appreciates the opportunities for consultation and engagement. Delta's submission provides commentary and suggested changes to address concerns with particular aspects of the Emissions Guarantee and the Reliability Guarantee.

In responding to competition concerns, the ESB has proposed that generators should be compelled to allocate generation under the Emissions Guarantee and then expose generators to sanctions if they unreasonably withhold allocation. Markets work best where participants are free to respond to supply/demand signals alone. Delta recommends unlimited access to domestic and verifiable international carbon offsets to support a competitive allocation process and to provide a natural cap on allocation pricing.

With regard to the Reliability Guarantee, the proposed arrangements appear to only incentivise short lead time dispatchable capacity. Ensuring that "firmness" is clearly defined and recognises the capacity that can operate for days, will provide further support technology neutrality. Whilst Delta does not hold a strong view either way on the benefit of the T-3 trigger gateway, it at least provides a definitive judgement on system capability. The Reliability Guarantee would be strengthened if the definitive judgement of the T-3 trigger was applied to a longer planning horizon, acknowledging that the obligation still only applies at T-1. This could avoid incentivising only short lead time capacity. Providing the full gap assessment to market participants for the whole ten years of the forecast will support longer term planning and technology neutral investment incentives.



## Emissions Guarantee

### *Over-allocation and Under-allocation provisions*

Delta does not believe that the administrative obligation on generators to allocate all their generation in the registry is necessary for the operation of the emissions obligation. The original proposal required all unallocated generation to go into an unallocated pool at an average emissions intensity of all unallocated generation. This provision combined with the automatic allocation of pool generation to over-allocated liable party load provides sufficient incentive for market participants to allocate their generation. Competition concerns can be alleviated by allowing retailers to replace 'pool' allocation with carbon offsets.

### *Carrying Forward Over-achievement*

Delta supports maximising the flexibility for participants to comply with the scheme. The restriction on carrying forward over-achievement appears to be restrictive for participants who may gain a cost advantage from building low emission generation at scale. Large generation projects with emissions below the target intensity may be disadvantaged by the limited carry forward provisions. The restrictions may introduce additional costs to consumers as scale economies are artificially penalised. Delta supports 10% carry forward of over achievement to ensure that emissions reductions are achieved at least cost. This approach is a much better fit with the concept of an "emission budget" for a defined period of time.

### *EITE scaling*

The approach to scaling EITE loads appears sensible and Delta therefore supports the mechanism. However, the timely provision of the EITE scaling factor will be critical to the smooth operation of the Emissions Guarantee and should be provided as soon as possible once meter data for EITEs and system demand is available.

### *Pre-1997 generation*

Delta supports the inclusion of pre-1997 renewable generation on the basis that the scheme is intended to be applied broadly and to be technology neutral. Excluding generation constructed before an arbitrary point in time will likely lead to higher costs to consumers for no environmental benefit. Excluding a large segment of the renewable generation resources in the NEM from the scheme could also exacerbate competition concerns for smaller market participants by denying them access to the widest range of sources of low emissions generation.



### *Penalties*

Delta views the proposed penalties for non-compliance with the Guarantee obligations as excessively punitive. While it is acknowledged that the \$100 million civil penalty is a proposed maximum level, the risk posed by this penalty for potentially minor breaches is unwarranted. The penalty regime should incentivise a culture of compliance, and this can be achieved by a much lower penalty level. Reputational risk, and the very high cost of defending a charge, serve as incentives to be compliant.

Delta suggests that a maximum penalty, in the order of \$1 million for a large business would be sufficient to provide a material incentive to comply with the requirements of the scheme. This level of penalty could be coupled with make-good provisions that require a market customer to exceed its target in the year following the non-compliance year by the amount of the compliance shortfall.

Another approach would be to make the penalty proportional to the level of non-compliance. The value of ACCUs and genuine verifiable international carbon units would serve as a reference that could be used to apply penalties that can be linked to the level non-compliance.

### *Offsets, Competition, Anti-avoidance and Unreasonable Withholding*

As previously noted, Delta does not see the necessity for compelling generators to allocate all their generation due to the natural incentives contained within the Emissions Guarantee mechanism. Removing this administrative requirement would limit the need for unreasonable withholding measures.

If the Commonwealth Government allows the use of offsets within the Emissions Guarantee, Delta expects there to be no need for unreasonable withholding provisions to be implemented in the National Electricity Law. With access to offsets from outside the Emission Guarantee, small retailers and market customers would be able to access an external market not subject to the limitations of the Australian market, which favours renewable off-takers that have a high credit standing. This should give the ESB comfort that sufficient compliance avenues exist for small market customers to avoid competition concerns. Delta strongly supports the use of offsets for economic as well as competition reasons and urges the ESB to commit to removing unreasonable withholding provisions from the Emissions Guarantee design.

Delta sees little benefit from excluding the first 50GWh of a retailer's demand. This level of exclusion is extremely low and would not capture a significant number of retailers. Removing this provision would make the anti-avoidance measures less of a necessity, as there would be no benefit to small retailers from restructuring for the purposes of obtaining the exclusion.

### Reliability Guarantee

#### *Qualifying Contracts*

Delta is concerned that the Reliability Guarantee as proposed in the draft detailed design would not provide additional incentive for conventional, low cost, dispatchable plant to continue to



underpin the reliability of the electricity supply system. The qualifying contracts appear insufficiently clearly defined to cause a change in a retailer's contracting approach. Delta supports a more clearly defined "firmness" regime for contracts. To ensure that the "firmness" does not attract flaws known in other international electricity markets, the AER should consult on a guideline that clearly defines the firmness factor adjustments to be made for various contract types. This would remove a significant uncertainty regarding scheme compliance and give clarity to auditors and liable parties about the types of contracts they should prefer should a reliability gap be forecast.

Contracts currently sold as 'non-firm' by dispatchable generation are in fact firm and should be treated as such for the purposes of assessing contract firmness. These 'non-firm' contracts are contracts that have a portion of the MW volume set down if the generator experiences a plant failure. These contracts provide a very high level of firmness (around 95%) for the purposes of physical supply and reliability. Materially decreasing the firmness factor of such contracts would create a disconnect between dispatch and contracts at the time of the reliability gap that will suppress the spot market's investment signal.

Delta also proposes that the ESB require the AER to specify a minimum portion of both flat swap and cap contracts in a retailer's reporting for compliance to ensure sufficient dispatchable capacity exists to cover an extended period of low wind and/or multiple plant failures. Requiring a minimum level of flat contracts would support capacity that is dispatchable for longer periods of time. Over time, Delta believes this would result in more dispatchable plant remaining available or being constructed which would benefit consumers through a more reliable, lower cost power system.

#### *Triggering the Reliability Obligation*

Delta supports a change to the Reliability Guarantee to separate the forecasting responsibility from the triggering obligation. To ensure that forecasting is truly independent, AEMO will need to be free from obligations arising from its forecast. Delta proposes that AEMO be the forecasting body and supports the involvement of the AER in the triggering of the obligation as proposed by the ESB. The AER should be the sole decision maker with regard to triggering the reliability obligation. This approach circumvents a decision making difficulty for the AER by avoiding public inter-agency conflict in a circumstance where the AER disagrees with AEMO's recommendation to trigger the reliability obligation.

Delta does not have a strong view on the need for a trigger at T-3 as well as at T-1. The formal notification to the market three years in advance is more likely to result in a change in retailer contracting behaviour than leaving the trigger assessment until T-1 only. However, there is a risk that the T-3 trigger incentivises new short lead capacity just to meet a single year's reliability gap. Delta suggests that detailed information about the reliability gap be made available for the entire period of the forecast. This would include an assessment of the gap in MW for 10 years, as well as the expected duration of potential shortfalls in capacity throughout the forecast period. This information will help inform market participants well in advance of reliability concerns and will support a technology neutral investment approach across the market.



### *Liabile Entities*

Delta understands the need to ensure large industrial customer load is captured by the Reliability Guarantee. A benefit of this aspect of the Reliability Guarantee is that large sophisticated industrial customer will have access to long term reliability outlooks that should aid decision making around their electricity contracting requirements. As a rule, customers should not be obligated to maintain power system reliability so allowing them to transfer their obligation to a retailer or generator with a retail licence is appropriate.

### *Market Liquidity Obligation*

Delta supports the proposed market liquidity obligation on large vertically integrated market participants. We note, however, that the ESB's proposal to capture participants on the basis of a share of generation within a region is not be appropriate. Generators with small retail operations already have a strong incentive to sell contracts and will therefore be a ready source of contracts to retailers and market customers within a region. Delta agrees that a potential disincentive to contract exists for participants who have a large retail market share within a region along with a large share of generation. For these reasons Delta proposes that the measure for capture within the market liquidity obligation should include a measure of retail market share as well as generation market share. Generation and retail market shares in the order of 20% would sufficiently capture market participants who may need to be incentivised to provide market liquidity.

Delta views the voluntary bookbuild proposal as unnecessary as a market liquidity obligation would be in operation.

### *Compliance*

Delta supports the proposed approach to assessing compliance whereby a liable entity would be assessed on its contract position for all trading intervals throughout the period where the reliability obligation was forecast to be breached. The assessment of each interval is crucial to ensure that retailers take a conservative approach to contracting rather than targeting the single maximum demand interval. This adds further incentive to contract with truly dispatchable plant rather than relying only on short duration storage or demand response.

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