



EnergyAustralia Pty Ltd
ABN 99 086 014 968

Level 33
385 Bourke Street
Melbourne Victoria 3000

Phone +61 3 8628 1000
Facsimile +61 3 8628 1050

enq@energyaustralia.com.au
energyaustralia.com.au

19 October 2018

Dr Kerry Schott
Energy Security Board

Submitted electronically to: info@esb.org.au

EnergyAustralia submission to OTC Transparency in the NEM

EnergyAustralia welcomes the opportunity to make a submission to the Energy Security Board's over-the counter (OTC) transparency Consultation Paper.

EnergyAustralia provides gas and electricity to 2.6 million household and business accounts across the National Electricity Market (NEM) with a diverse generation portfolio of coal, gas and renewable energy.

The consultation paper contemplates two options; individual contract trade reporting and aggregated standardised trade reporting such as AFMA's survey-based report.

EnergyAustralia believes the case has not been made to warrant individual contract reporting of OTC derivatives, nor has it been outlined how regulators would use or benefit from this detailed information. We do support aggregated standardised reporting and believe the ESB should talk with the Australian Financial Markets Association (AFMA) about what enhancements they may want to this report to meet their requirements, rather than duplicating the process.

Individual contract reporting is a huge regulatory impost on the sector. The purpose in the paper for considering this appears to be in the interest of providing transparency. Transparency is a principle we support, but access to large volumes of trade data does not in itself provide transparency unless the data can be aggregated and analysed for a meaningful purpose. The resources required to make this data meaningful, given the bespoke nature of the contracts, would be significant and is unlikely to illicit any additional insights than what is already available on the ASX or through the AFMA survey.

We are very concerned that unless thought has been given to how and why this information will be used before a decision to mandate individual OTC reporting, it will be collected and never looked at. The purpose of collecting each piece of data first needs to be explained before making a blanket request for all OTC trades.

The reporting burden to include all electricity OTCs updates and position changes will be very substantial. For example, we estimate that the reporting of gas OTCs that we

would do per annum is less than 100 but to do the same reporting for electricity OTCs would be in the order of over 2000 per annum, depending on coverage.

We are very concerned about the commercially sensitive nature of information provided in individual OTC contracts and how this information would be handled.

If OTC reporting is to go ahead despite recognition of our earlier concerns, it is imperative that the data required on each trade is minimal. Both to reduce our regulatory burden, but also so the information can be meaningfully collated by a regulator.

Minimising the data required is also important to restrict the amount of commercially sensitive information that is at risk of being disclosure unlawfully. Should this occur, civil penalties should apply.

At present the regulator for OTC reporting for all industries is ASIC, and it is unclear why the energy sector should be any different. If it is for market monitoring purposes, we understand the AER must use publicly available information to carry out wholesale market monitoring functions in the first instance. If AER identify an issue, then AER may use powers under section 28 of the NEL to acquire non-public information.

Replicating the established derivative reporting regime overseen by ASIC under the Corporation Law (using an off-shore licensed platform - DTCC), with an industry-specific trade repository as recommended by the ACCC, is a huge regulatory impost on the energy and finance sectors.

There is a range of public information AER will rely on, including information and data published by AEMO, the AEMC and jurisdictional regulators, as well as data available through the ASX. Rather than replicate an existing regime, consideration should be given to allowing AER access in-confidence to the existing ASIC derivative reporting data.

The AER may also collect primary data through direct engagement or surveys of market participants and other stakeholders.

Electricity OTC's are financial contracts for the purpose of hedging and have no link to the physical supply of electricity, therefore we see no reason for AEMO to have access to OTC reporting data.

For further information on any issues raised in this submission please contact Lisa Gooding, Team Leader Policy & Government Affairs, on (03) 8628 1467 or at lisa.gooding@energyaustralia.com.au.

Regards

Lisa Gooding
Policy and Government Affairs Team Leader