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7 March 2019

Dr Kerry Schott  
Chair  
Energy Security Board  
By email to [info@esb.org.au](mailto:info@esb.org.au)

Dear Dr Schott

**Energy Security Board Consultation Paper – ACCC Recommendation 41**

Ergon Energy Queensland Limited (Ergon Energy Retail) welcomes the opportunity to provide comment to the Energy Security Board (ESB) regarding its Consultation Paper on Recommendation 41 of the Australian Competition and Consumer Commission (ACCC) Retail Electricity Pricing Inquiry (June 2018) which recommends the expansion of the Australian Energy Regulator's (AER) wholesale market monitoring functions.

In response to the ESB's invitation to provide comments, Ergon Energy Retail provides responses to the questions raised in the Consultation Paper in the attached table.

Should you require additional information or wish to discuss any aspect of this submission, please contact me on (07) 3851 6787 or Andrea Wold on (07) 3664 4970.

Yours sincerely

A handwritten signature in cursive script that reads 'Trudy Fraser'.

Trudy Fraser  
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***Encl – Ergon Energy Retail comments on the Consultation Paper***

## ACCC Recommendation 41

### Expansion of AER's Wholesale Market Monitoring Functions

ESB Question	Ergon Energy Retail Comment
<b>Options for expanding AER's wholesale market monitoring function</b>	
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?	Current confidentiality provisions within the International Swaps and Derivatives Association's (ISDA) master agreement which is used to facilitate the vast majority of over-the-counter (OTC) contracts may prevent participants from releasing OTC data in specific detail. Ergon Energy Retail suggests the AER instead use the Australian Financial Markets Association (AFMA) survey to gather the information necessary to monitor the contracts market.
Should restrictions imposed under section 18D of the National Electricity Law (NEL) on information gathered under section 28 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?	No. Ergon Energy Retail is of the view that the existing Australian Stock Exchange (ASX) electricity futures data is sufficient to determine market liquidity.
How can the AER's role be designed to be effective while avoiding overlap with the role of the Australian Securities and Investment Commission in contract markets for gas and electricity?	Ergon Energy Retail provides no comment.
<b>OTC Trade Repository</b>	
Is an OTC trade repository required for the AER to access the information it requires to effectively undertake its wholesale market monitoring function?	No. Ergon Energy Retail considers trade volumes and prices are visible via both the ASX electricity futures data as well as the AFMA turnover survey.

<p>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?</p>	<p>Ergon Energy Retail reiterates its view that the AFMA turnover survey should be used in place of a new OTC repository. The AFMA survey is published annually and contains sufficient detail to enable the AER to determine contract market liquidity. Most large electricity market participants are AFMA members and as such, should contribute to the survey.</p>
<p>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?</p>	<p>Ergon Energy Retail suggests the ASX electricity futures is a good indicator of trade volumes and turnover in the electricity market. Ergon Energy Retail is of the view ACCC recommendation 41 relates to 'enhancing transparency of OTC market activity and price trends', and there appears to be no reason why the AER would require access to specific details such as the identities of the contracting parties.</p>
<p>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?</p>	<p>Ergon Energy Retail again reiterates its preference that the AER rely on the AFMA survey rather than the creation of a new OTC trade repository.</p>