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Dr Kerry Schott
Chair
Energy Security Board

By email to info@esb.org.au

Dear Dr Schott

Energy Security Board Retailer Reliability Obligation Draft Rules Consultation Paper

Ergon Energy Queensland Limited (Ergon Energy Retail) welcomes the opportunity to provide comment to the Energy Security Board (ESB) regarding its Consultation Paper on the Draft Rules for the Retailer Reliability Obligation.

In response to the ESB's invitation to provide comment, Ergon Energy Retail has responded 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

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Manager Policy and Regulatory Reform

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

ESB Question	Ergon Energy Retail comments
Chapter 4 - Triggering the reliability obligation	
Three year notice of closure: The ESB is interested in stakeholder's views on whether the period of notice of closure of a generator should be extended, for example from three years to four years (or some period of time in between), to provide sufficient time for this information to be incorporated into the Electricity Statement of Opportunities, reliability forecast and T-3 reliability instrument request?	Given the timeframes incorporated in the Retailer Reliability Obligation (RRO), and particularly the obligation for a T-3 Reliability Instrument to be issued three months prior to the T-3 cut-off day, three years is not considered sufficient time for a generator to provide notice of closure, particularly as the closure of that generator may be the trigger for a T-3 Reliability Instrument. Instead, we are of the view that base load generators and peaking generation with a nameplate capacity of greater than 100MW should be required to give five years notice of closure, aligned with the Electricity Statement of Opportunities reporting timeframes. This alignment would overcome the timing disconnect with the T-3 Reliability Instrument and provide greater certainty to market customers of a generator's intent.
Chapter 5 - Liable entities	
Large Opt-in Customer threshold: This threshold needs to balance the administrative burden with providing the flexibility to opt-in for those that do. The ESB is interested in feedback on the current approach of using the existing large customer definition. In particular, the ESB is interested in feedback on whether this threshold is too low and, if so, at what level an alternative large customer threshold should be set.	We do not anticipate that many (if any) large customers will elect to opt-in to manage their obligation under the RRO. While a small number of extremely large customers (for example, smelters) are market customers, it is our experience that most large customers have a preference for retailers to manage their obligations and risks under a retail contract due to the complexity of the energy market. We also raise the issue that a T-3 instrument is issued three years and three months in advance of a RRO event. However, a large customer can opt-in to the RRO 18 months after the T-3 Instrument is effected. When a T-3 Instrument is issued, a retailer may begin to build its contract book to manage its RRO liability (that is, three years in advance), with the large customer's load included in this position. However, when a customer opts-in to the RRO up to 18 months after the

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	T-3 Instrument takes effect, it may have the unintended but consequential effect of the retailer becoming over-contracted. While the retailer may be able to sell down its position, this too comes with significant risk and the potential for financial loss. We are therefore of the view that only existing and/or new large customers with a consumption of greater than 40 gigawatt hours per year should be able to opt-in. In addition, the Australian Energy Regulator's (AER) Opt-in Guideline should explicitly detail the obligations, liabilities and risks of a customer should they elect to opt-in.
Prescribed Opt-in Customer threshold: The Rules currently require that the total load at a connection point must have annual peak demand of greater than or equal to 30 megawatts (MW), and the portion that the entity wishes to opt-in for must have annual peak demand equal to or greater than 5 MW. The ESB is interested in feedback on these proposed thresholds for Prescribed Opt-in Customer eligibility.	As mentioned above, it is our view that most large customers will not opt-in to the RRO. Rather, large customers typically engage retailers to manage their energy market risk which would suggest it would need to be a significantly large customer with considerable energy expertise who would elect to become a prescribed opt-in customer. As the RRO is complicated and administratively onerous (for example, the need to have the firm bespoke contracts assessed by an independent auditor), we cannot foresee many circumstances where a large customer will elect to opt-in, resulting in the Prescribed opt-in customer category being largely redundant.
New Entrant liability threshold: The Rules currently apply the threshold of 100 megawatt hours of anticipated annual consumption to new entrants. The ESB is interested in feedback on whether a different threshold should be defined for the purposes of determining new entrant liability and – if so – how the threshold for new entrant liability should be set.	We are firmly of the view that a 100 megawatt hour (MWh) threshold of anticipated annual consumption for new entrants is too low. Such a threshold has the potential to capture businesses that may not have the experience, time or resources to negotiate these contracts.
Chapter 6 - Qualifying Contracts and Net Contract Position	

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Firmness methodology: The Rules currently provide that a liable entity which uses a bespoke firmness methodology must engage an independent auditor to confirm the net contract position submitted to the AER uses a methodology which is consistent with the firmness principles (if not pre-approved) and was calculated using the bespoke methodology proposed. Liable entities can, but don't have to, submit their bespoke methodologies to the AER for approval. A potential alternative approach has been outlined in Section 6.3. The ESB is seeking feedback on these, or alternative, approaches for the purposes of determining bespoke firmness methodologies for qualifying contracts.	We note that due to timing constraints the AER will develop a number of interim guidelines which will be in place for one to two years, during which time the AER will run a full consultation process to develop final guidelines. We look forward to participating in this process as it will be important that the guidelines strike an appropriate balance. Should the guidelines be restrictive, there is the potential for some services/mechanisms that may assist in meeting the RRO, departing the market which may increase costs of compliance as retailers will need to seek alternatives. In relation to the current and proposed approaches to determining and approving firmness methodologies, we are comfortable with both mechanisms put forth in the Consultation Paper. We are particularly supportive of the AER publishing guidelines setting out principles that are to be applied in relation to all firmness methodologies used. This should allow participants to assess the likelihood of approval by either the AER, or the panel of auditors that have been pre-approved, to review firmness methodologies for bespoke products during contract negotiations. Despite this, we remain concerned about the potential costs and timeframes associated with the process for the assessment of a bespoke methodology by an independent auditor and/or the AER. As these costs will flow through to customers it is imperative that the approach taken facilitates quick assessments and approvals at the least cost.
Market Liquidity Obligation (MLO) trigger: The ESB is seeking feedback on the proposal that the MLO only be triggered where sufficient voluntary market-making is not already occurring in the region. Further, feedback is sought on challenges with this approach other than those identified and how to overcome the identified challenges of this approach, if it were adopted.	While we mostly support the MLO, we are concerned with the ability of a MLO generator to influence the market price in the period immediately prior to the MLO window. We would therefore recommend an increase in the lot size to 5MW for both the MLO and the Australian Stock Exchange to mitigate this risk.

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MLO obligated parties: The ESB is seeking feedback on the proposal that MLO obligated parties for the first two years of the Retailer Reliability Obligation would be deemed in the Rules.	We support this proposal.
Registered capacity: The ESB is seeking feedback on whether this is the appropriate measure of generation capacity and, if so, whether it needs to be defined in the Rules.	We believe this is an appropriate measure, in conjunction with the other measures used to satisfy the criteria that determines if the MLO will be imposed on a NEM Generator. We support this measure being captured in the Rules.
Dispatch control: The ESB is seeking feedback on this concept for determining trading right holders and the purposes of grouping for the MLO threshold.	We are of the view that it is appropriate to consider all trading rights and off-take agreements relating to generator dispatch in calculating generator capacity.
Control and influence test: The ESB is seeking feedback on the appropriateness of the control and influence test in determining trading groups subject to the MLO.	We support the 'control or influence' test as proposed by the ESB.
MLO information: The ESB is seeking feedback on the information obligations imposed on MLO obligated parties.	We provide no comment.
Permitted adjustments: The ESB is seeking feedback on two elements of permitted adjustments: - Are there any other categories of adjustments that should be considered permitted adjustments? - Are the thresholds for adjustment (i.e. 1 per cent and 15 per cent) the appropriate thresholds? If not, what are the appropriate thresholds? - Is the net contract position the appropriate measure for permitted adjustments? Does this allow for any gaming opportunities? If so, how? Can these gaming opportunities be removed or minimised by using a different approach?	We have no comment in respect to the permitted adjustments or the associated percentage adjustments.

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Chapter 7 – Compliance	
Liable Entity's share of one-in-two year peak demand: The ESB is seeking stakeholders view on the formula used for determining a liable entity's share of the one-in-two year peak demand forecast and in particular that a single scaling factor is used for the entire gap period rather than a scaling factor for each trading interval in the gap period.	We are concerned with the proposal to use a single scaling factor rather than a scaling factor for each trading interval. It is our view that a single scaling factor may force a retailer to hedge flat and long, with costs passed to customers. Instead we support a scaling factor for each trading interval. We are also concerned that the methodology used for determining a liable entity's share of the one-in-two year peak demand forecast may not take account of the potential variation in load flex within a region. In regions such as Queensland and New South Wales where a large portion of the load/demand is generally driven out of specific load centres there may be instances where there is not a correlation between the demand occurring in the regions and the main load/demand centres. This may potentially result in retailers operating in the regions having to manage their liability in relation to a one-in-two year peak demand event driven by events occurring in the load/demand centres in which the retailer may not operate.
Chapter 8 - Procurer of Last Resort (POLR)	
Apportioning POLR Costs: The ESB is interested in stakeholders' views around how retailers that receive a refund should be incentivised to pass-through the refund to their Commercial and Industrial (C&I) customers.	We provide no comment.
Pass-through for non-compliant retailers: The ESB would like to hear whether non-compliant retailers should be able to pass-through their additional charges through to their customers.	We provide no comment.
Incentive related to C&I customers: The ESB is interested in views on whether the POLR cost recovery mechanism, together with the ability of retailers to pass-through to C&I customers	In our experience, Commercial and Industrial (C&I) customers attempt to reduce liability contractually with their retailer. If you pass through POLR costs to C&I customers it may increase the number of large

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these types of costs, reduce the incentive for retailers to contract at T-1 for their C&I peak demand forecast.	customers who opt-in to the RRO and who are then competing for firm contracts which in our view, may further escalate prices and risk to customers in the market.
Should a POLR adjustment be possible if an AER audit identifies a different compliance shortfall for a liable entity than what had been initially reported to the Australian Energy Market Operator (AEMO)?	We provide no comment.