



8 March 2019

Dr Kerry Schott AO
Independent Chair
Energy Security Board

Submitted online: info@esb.org.au

Dear Dr Schott

ACCC RETAIL ELECTRICITY PRICING INQUIRY – RECOMMENDATION 41

Origin Energy Limited (Origin) welcomes the opportunity to input into the Energy Security Board's (ESB) consultation on recommendation 41 from the ACCC Retail Electricity Pricing Inquiry (REPI) which proposes that the Australian Energy Regulator (AER) be given enhanced powers to monitor the contracts market. While we recognise that there will be some monitoring, we are concerned the recommendation will result in duplication and increased burden for participants. This is due to the ACCC's current and impending monitoring of the gas and electricity markets respectively, where contracting activity has been identified as an area of focus. We also do not consider that a trade repository is required, or that it would be beneficial for the market overall. Our detailed views on these issues are set out below.

The approach to market monitoring should minimise duplication and the burden of compliance.

Following the publication of the REPI final report, the Treasurer on 28 August 2018 directed the ACCC to hold a public inquiry to monitor prices, costs and profit margins in the supply of electricity from March 2019 to 2025¹. The terms of reference and subsequent ACCC consultation paper indicate that the scope of the inquiry will also cover contract market liquidity. The ACCC is also conducting a wide-ranging monitoring exercise into the wholesale gas market that will run until 2020².

Origin is concerned that granting additional information gathering powers to the AER to monitor the contracts market will result in duplication and increased regulatory burden given the existing ACCC activity, and the Australian Securities and Investment Commission's (ASIC) role in overseeing derivatives contracts. We recognise that notwithstanding the ACCC's work, the AER has a statutory obligation to monitor the wholesale electricity market including the publication of its twice-yearly wholesale electricity market performance report. However, if the AER now requires additional insights into the contracts market to effectively fulfil its obligations, it should first look to leverage the information gathered through the ACCC's monitoring. It is our understanding that the Competition and Consumer Act provides for information sharing between the ACCC and AER³.

Generally, a streamlined approach to monitoring activity in the energy market is crucial and will help to minimise the burden of compliance and provide greater clarity to participants. If the NEL is amended to give the AER additional information gathering powers to monitor contract markets, it is not clear why this should continue to be a focus of the ACCC's inquiry.

The establishment of an OTC trade repository is not warranted.

Origin agrees with the ESB's earlier finding that the establishment of a trade repository is not warranted. A trade repository in the context of the energy market would prove burdensome and will not result in a net benefit. Given the bespoke nature of OTC electricity contracts, any reporting to a trade repository

¹ <https://www.accc.gov.au/regulated-infrastructure/energy/electricity-market-monitoring-2018-2025>

² <https://www.accc.gov.au/regulated-infrastructure/energy/gas-inquiry-2017-2020>

³ Under ss. 44AAF and 157A of the Competition and Consumer Act

would also be of limited usefulness. We therefore do not support the establishment of a trade repository as a means of enabling the AER to monitor the contracts market.

In addition to any information gathered through the ACCC process, the Australian Financial Market Association (AFMA) Electricity Derivative Turnover report⁴ provides visibility of OTC trading activity. Regulators should look to work with industry and AFMA to explore avenues to enhance the report if this is deemed to be useful. The AFMA report would be a relatively quick and low-cost approach to providing more insights into OTC activity.

If you wish to discuss any aspect of this submission further, please contact Kian Mohammadiéh at Kian.Mohammadiéh@originenergy.com.au or on 02 9503 5970.

Yours Sincerely,



Steve Reid
Group Manager, Regulatory Policy

⁴ <https://afma.com.au/data/AFMR>