



5 April 2019

Dr Kerry Schott AO  
Independent Chair  
Energy Security Board

(via email to: [info@esb.org.au](mailto:info@esb.org.au))

Dear Dr Schott

### **Retailer Reliability Obligation Draft Rules Consultation Paper**

Thank you for the opportunity to make a submission in response to the Energy Security Board's (ESB) Retailer Reliability Obligation Draft Rules Consultation Paper (**Consultation Paper**).

#### **Shell in Australia**

Shell has been active in Australia since 1901. Australia forms an important part of Shell's global natural gas business. Historically, our significant investments in Australia have spanned both the upstream and downstream sectors, but today we are primarily focussed on the exploration, development and production of natural gas.

Shell's business interests in Australia span a wide spectrum of the energy market and supply chain including:

- A major player in the east coast domestic gas market;
- A large energy user through our CSG business in Queensland;
- Owner of an existing combined cycle power station- Condamine Power Station;
- Recently acquired 100% of Sonnen- a leader in smart energy storage systems and innovative energy services for households;
- In the stages of making an assessment on a final investment decision on a renewable energy project;
- Creating a domestic energy marketing and trading business through Shell Energy Australian (SEAu). SEAu actively markets and trades energy products (including power and gas) to commercial and industrial and other customers in both Australia's east and west Coast markets and holds an Australian Financial Services Licence.

We operate LNG projects on both the West (Prelude) and East Coast (through QGC) and we are part of several joint venture projects.

#### **General comments**



We have participated in the ESB's previous consultation processes including providing comments on the *National Energy Guarantee- Detailed Design Consultation Paper* and in subsequent consultations processes relating to elements of the Retailer Reliability Obligation. The remarks made in our former submissions still hold.

We also offer some broad high-level comments below primarily relating to the governance framework for the operation of the Obligation, rather than specific drafting changes to proposed Rules.

### ***Governance structure***

Shell notes the Obligation is intended to commence on 1 July 2019 and that AEMO could potentially make a T-3 reliability instrument request as soon as September 2019, based on the August 2019 ES00.

Rather than being included in the Rules, much of the operational elements of the Obligation are to be included in guidelines issued by the AER and AEMO- which are yet to be developed. These guidelines will have a significant bearing upon the requirements of liable entities and market participants under the Obligation.

It is important that there is the right balance between flexibility for market bodies to develop guidance, while ensuring a strong governance framework is in place. While guidelines provide a useful mechanism, their development is far less involved than a rigorous Rule making process and requires far less consultation.

In particular, the current proposal of operating under interim guidelines and then changing to final guidelines 12-18 months later introduces an additional layer of complexity for planning, compliance and reporting. We note the consultation paper indicates it will not be necessary for the full Rules consultation procedures to be followed for interim guidelines, given the limited time available for development. We disagree with this approach given market participants and liable entities will still need to operate under the interim guidelines and while they may be transitional they will form the basis of the final guidelines.

We recommend the AER and AEMO undertake full consultation of the interim guidelines in the same way that they would for final guidelines or Rule changes to ensure the most effective operation of the Obligation.

### ***Flexibility***

We note the Obligation imposes several new administrative and compliance obligations on liable entities and market participants. The cost of compliance coupled with the risk of managing the Obligation won't be insignificant and flexibility should therefore be maintained in applying the framework.

For instance, the draft Rules allow liable entities to develop and use bespoke methodologies rather than default methodologies when calculating the firmness of non-standard contracts. Shell supports this option to ensure optimum flexibility.



However, we disagree with the draft Rules requiring the AER to approve the methodology for firmness factors if it has already been approved by an independent auditor. An additional audit by the AER adds an extra compliance burden, cost and level of uncertainty and there seems little value in an extra assessment by the AER when an independent audit has already taken place. This requirement would merely add time, a resourcing burden (on both the AER and the liable entity) and an additional layer of complexity.

Additionally, as acknowledged by the ESB, liable entities need to know the firmness of a contract while they are negotiating the contract terms because the firmness may impact the value of the contract. However, timeframes for negotiating contracts are often far shorter than the time required for the AER to undertake its assessment.

The ESB's proposed alternate approach of the AER establishing a panel of auditors qualified to undertake the assessment (instead of both an independent audit and additional audit by the AER) seems sensible. Further, given the additional requirements already placed upon the AER, it seems more appropriate that an independent auditor is required to undertake this work from a resourcing perspective.

### **Conclusion**

Shell appreciates the opportunity to comment on the ESB's Draft Rules consultation paper and the involvement in previous processes. Any questions can be directed to [Jessica.Mackey@shell.com](mailto:Jessica.Mackey@shell.com).

Kind regards

[per electronic lodgement]

**Nilofar Morgan**

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