

12 September 2018

Energy Security Board
c/- COAG Energy Council Secretariat
John Gorton Building
King Edward Terrace
Parkes ACT 2600

Submitted electronically: info@esb.org.au

National Electricity (South Australia) National Energy Guarantee (NEG) Amendment Bill 2018

Snowy Hydro Limited welcomes the opportunity to comment on matters raised in the Policy Options Paper from the Energy Security Board (ESB) on the National Electricity (South Australia) (National Energy Guarantee) Amendment Bill 2018.

Snowy Hydro Limited is a producer, supplier, trader and retailer of energy in the National Electricity Market ('NEM') and a leading provider of risk management financial hedge contracts. We are an integrated energy company with more than 5,500 megawatts (MW) of generating capacity. We are one of Australia's largest renewable generators, the third largest generator by capacity and the fourth largest retailer in the NEM through our award-winning retail energy companies - Red Energy and Lumo Energy.

Snowy Hydro believes the Draft Bill of the NEG, subject to any potential revisions to the pre-conditions for triggering the obligation, is broadly consistent with the agreed final design. There are certain provisions however which are inconsistent to the final design that require further clarification. The provisions which allow the Australian Energy Market Operator (AEMO) to effectively bypass the requirement for triggering a T-3 instrument prior to a T-1 instrument and a clause for the establishment of a trade repository are inconsistent to the consulted final design. The inclusion of these clauses and provisions could undermine the operation of the NEM, confidence in the market, and are not in the long term interest of consumers.

The existing market design can be relied upon to support reliability in the long-term with the NEM not expected to confront immediate reliability issues. Snowy Hydro believes the high level design which was robustly consulted on should remain the default unless there are demonstrably more efficient options.

Emissions Guarantee

The emissions reductions requirement is imposed on liable customers, being retailers and other large customers who are required to participate in the emissions register, in accordance with the Rules. Snowy Hydro believes only participants with a liable load should be allowed access to the register. Provision 14G(3) therefore needs to be clarified as it states that participating jurisdictions are able to participate in the emissions register without a liable load.

Participating jurisdictions can already access publicly available data that is sufficiently wide and deep to allow those without a liable load to analyse and make an informed assessment on the state of the NEM. We strongly caution against a participating jurisdictions divulging in information which would

undermine certainty and confidence in operating in the NEM and could result in an intrusive regulatory environment.

Reliability Guarantee

Snowy Hydro believes that provisions 14ZF(2)(b), 14ZG(3)(b), 14ZI(1)(b)(ii)¹ are inconsistent with the final detailed NEG design. This clause provides scope for outlining circumstances in the Rules where AEMO could effectively bypass the requirement for triggering a T-3 instrument prior to a T-1 instrument.

The T-3 timeframe allows market participants to have confidence in meeting the reliability standard, should there be a gap, and allows sufficient time to respond providing confidence in the market. A T-1 timeframe would not provide sufficient confidence or time for market participants to respond. Snowy Hydro therefore does not support AEMO bypassing the T-3 instrument as this approach would undermine the structure of the operation of the NEM and the confidence in the market.

The AER should have a role in approving decisions impacting the reliability of the NEM. The AER support the effective operation of the market by encouraging parties to provide information that is required for statutory bodies to exercise their functions. Changes to this framework in the NEG would reduce the transparency and predictability of decision making undermining market confidence.

Snowy Hydro believes that provision 18ZH² needs further clarification. We believe the use of information collected through the reliability mechanism should be limited to the administration and enforcement of the mechanism, particularly given the AER may obtain access to commercial-in-confidence material. The AER should not be free to use and share this information within the agency for effectively any purpose, as would be permitted under the proposed drafting.

We strongly caution against complying Participants divulging into confidential data/information which would undermine certainty and confidence in be operating in the NEM and hence would deter new investment in the NEM and/or create increased costs for these new investments in an intrusive regulatory environment.

Further clarification is needed on understanding the meaning of qualifying contract and net contract position in the legislation. The proposed definition of a "qualifying contract" does not appear to exclude swaps provided by financial intermediaries. This would permit contracts which do not contribute to the reliability of the NEM to count towards the Reliability Guarantee.

Amendment of Schedule 1³ under the subject matter for the National Electricity Rules (26)(6R) provides a clause for the establishment of a trade repository. Snowy Hydro believes this should be removed from the legislation as it is outside the scope of the ESB's Final Design. We refer to the NEG Final Detailed Design which noted that "*with the Market Liquidity Obligation (MLO) in place, the ESB does not consider that the costs of establishing a trade repository are warranted to satisfy the objectives of the Guarantee.*"⁴ We are unclear as to why there is currently a proposed MLO and a trade repository.

¹ National Electricity (South Australia) (National Energy Guarantee) Amendment Bill 2018, pp25-35

² National Electricity (South Australia) (National Energy Guarantee) Amendment Bill 2018, pp44

³ National Electricity (South Australia) (National Energy Guarantee) Amendment Bill 2018, pp59

⁴ Energy Security Board, 2018, "Final Detailed Design National Energy Guarantee", pp40

Trade reporting and trade repositories would be expensive to implement and a daily administrative burden on the industry. A viable alternative as Snowy Hydro has previously noted is to improve transparency without unnecessary cost burdens is to utilise Broker recorded OTC trades and for the industry to work with the Australian Financial Markets Association (AFMA) annual surveys to get more granular OTC reporting.

Snowy Hydro appreciates the opportunity to respond to the Policy Options Paper. Any questions about this submission should be addressed to Panos Priftakis, Regulation Manager, by e-mail to panos.priftakis@snowyhydro.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K Ly', with a long horizontal stroke underneath.

Kevin Ly
Head of Wholesale Regulation
Snowy Hydro

