12 July 2018

Energy Security Board
By Email: info@esb.org.au

National Energy Guarantee Draft Detailed Design Consultation Paper (the "Consultation Paper")

Telstra welcomes the opportunity to make a submission on the Consultation Paper.

Given the scale of our operations, Telstra is a major energy user and we rely on the grid to provide critical telcommunication services to Australian homes and businesses.

We believe it is critical the Australian energy market has in place the necessary policies, systems and procedures to deliver reliable power nationally while meeting our energy intensity objectives at the lowest feasible and economic cost. The National Energy Guarantee (the **Guarantee**) has the potential to deliver these important objectives based on the detail provided through the Consultation Paper and associated stakeholder engagement.

In particular, it is positive the Consultation Paper indicates the Guarantee will be implemented in a manner that minimises administrative burden while still delivering on the above objectives.

It is critical from a business perspective to have regulatory certainty, which is a necessary condition for long term investment decisions in power generation. We support the Guarantee as a way to deliver that certainty. We acknowledge that once that certainty exists it is incumbent on large energy users to be more efficient and to work proactively with the energy market to manage their input costs.

While we have attached some proposed important minor adjustments to the detail contained in the Consultation Paper, we are otherwise supportive of the Guarantee's prompt implementation. Our proposed adjustments are intended to maximise simplicity, preserve working aspects of today's market, and ensure that the incentives in place to achieve the Guarantee's objectives are effective but not overly burdensome. Telstra is a member of industry bodies that have made more detailed submissions on the Consultation Paper, and our separate submission is intended to highlight the points of particular concern to Telstra.

Yours sincerely,

James Gerraty
Head of Telstra Energy

TELSTRA CORPORATION LIMITED

Telstra submission in response to Energy Security Board's National Energy Guarantee Draft Detailed Design Consultation Paper

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3. Emissions reduction requirement

3.3.2 – Generation and emissions allocation approach

To ensure the registry operates efficiently, generators … will have an administrative requirement to allocate all generation and associated emissions by the reporting and compliance date.

This drafting makes it unclear whether the proposal is that:

- A Generator must ensure that any allocations they have agreed with Market Customers are allocated in the registry by the deadline (a proposal which Telstra would support); or
- A generator must ensure that they have agreed allocations with Market Customers for all of their generation volume, which must then be allocated in the registry by the deadline (a proposal which Telstra would suggest is problematic).

If the second interpretation of the proposal was the correct one, that would make the implementation of the Guarantee challenging. This is because:

- Generators may be unable to find Market Customers willing to contract for allocation on acceptable commercial terms, and this is particularly a risk for any Generator who is not vertically integrated with a retail business equivalent in size to their generation business;
- A Generator with low production volumes will incur significant administrative costs on a $/MWh basis if obliged to allocate that generation to a Market Customer, but this allocation will serve little purpose in the overall scheme of the Guarantee; and
- A Generator whose emissions intensity is equal to the target for a given year will not benefit from allocating its generation volumes to a Market Customer, and as such any obligation to do so is creating an unnecessary administrative burden.

All of these issues have the potential to lead to higher costs for the sector, which could lead to higher costs for energy users.

The TWP on the Emissions Registry also states, at 3.2:

Market customers are responsible for meeting the electricity emissions target and will be obliged to have sufficient generation allocated to cover their load.

The drafting of this section is not clear, but Telstra is concerned at the suggestion Market Customers must have sufficient MWh of generation allocated to cover their load. We believe the only requirement on Market Customers should be to meet the emissions intensity target, which could be achieved by a combination of having generation allocated to the Market Customer in the registry and application of the intensity factor of the residual generation. If the intensity factor of the market as a whole is expected to easily beat the target for a given year it will be an unnecessary administrative burden on participants to allocate generation as the residual intensity factor would in those circumstances already beat the target.

3.3.3 – Accounting for generation and load

Non-market embedded generation that meets both a capacity threshold of 5 MW and, for non-renewable generators, an emissions threshold of 25,000 tCO2-e12, will be captured by adding its exports to the relevant market customer's load.

We believe these same thresholds should apply to any *small generating units* which are *market generating units* under the National Electricity Rules (**NER**) as a function of the *Small Generation Aggregator* registration category, and below the thresholds those *market generating units* should not be included in the calculation of the emissions reduction requirement. Otherwise, participants could have a commercial incentive to avoid registering these generators in the National Electricity Market (**NEM**) (or to de-register them), which would reduce the market's ability to meet the reliability requirement (and AEMO's visibility of generation which might contribute to meeting the reliability requirement).

The ESB proposes to facilitate the treatment of GreenPower in the emissions reduction requirement to allow consumers to make an additional contribution to emissions reduction beyond that required by the target.

Conceptually, this would be achieved by deducting a market customer's GreenPower load and associated renewable generation occurring in the compliance year from its total load and allocated generation.

This method is workable for procurement of GreenPower via electricity retailers, but we believe it should be supplemented by a method that allows large corporate buyers to achieve GreenPower status of generation without involving an electricity retailer. Under the present GreenPower scheme a customer can purchase GreenPower LGCs and surrender them, without having to involve an energy retailer or to link those LGCs to identified electricity consumption. This allows LGCs to be purchased from sources independent of electricity retailing, and allows the GreenPower surrender process to be separate from the electricity procurement process.

Telstra and other large corporate customers have entered into long term contracts for the supply of low emissions generation, and must maintain the ability to exclude that generation from any legislated targets, regardless of how that generation interacts with our retailer relationships. This can be achieved by allowing a GreenPower accredited generator to nominate some MWh as GreenPower, to be excluded from the calculation of the emissions intensity target. Those MWh would not be allocated to any retailer. The fact that MWh of generation would then not match the MWh of load is no different to the approach to EITE load or the first 50,000 MWh for each Market Customer, but if desired the scheme could explicitly provide that a retailer is allocated the residual intensity factor for any MWh not allocated regardless of whether that leads to the residual intensity factor applying to more MWh of load than the MWh of residual generation.

3.3.4 – Registry operations

The registry will only be accessible to market customers and generators.

To help ensure transparency in the market, we believe that all information in the registry must be widely accessible:

- Large customers who are not Market Customers will need the ability to manage their underlying risk exposure independently of their energy retailers. Even though not directly liable, the cost of meeting the Guarantee will sit with energy users who must therefore be able to make informed long-term decisions about low emissions generation. The alternative is that we are captive to incumbent generators, which will drive inefficient market outcomes and higher prices for large energy users.

- Making this information confidential will be a barrier to the potential entry into our market of new energy retailers, which is contrary to the Guarantee's objectives.

- There is no logical rationale for any of the registry data to be confidential given its contents. Given this information is intended to be shared across Market Customers and Generators who are

competitors, and there is no significant incremental cost in making it generally available, broader sharing can only have positive market outcomes.

3.5.4 – Enforcement tools for emissions reduction requirement

It is proposed that a civil penalty with a new upper limit of $100 million will apply.

There is insufficient detail available on this penalty regime and the reliance on the court's discretion in the application of penalties limits a market participant's visibility of their risk exposure. $100m could represent anywhere from $2 to $20,000 per MWh, which is obviously a very broad range.

Given only Market Customers are liable under this scheme, we would recommend that a limit be imposed on court imposed penalties based on a Market Customer's pool purchases. For example, a limit of $100 for every MWh purchased from the pool would provide for a wide range of court imposed penalties for larger Market Customers. Setting a cap on penalties aligned to the size of a corporation's relevant business is consistent with the approach adopted by the Australian Consumer Law.

4. Reliability requirement

4.5 – Liable entities

It is currently proposed that the Guarantee will set a threshold size of 5 MW peak demand at a single site.

The TWP notes that this would be done at a NMI level, although also makes reference to a "site" threshold. Our understanding of this threshold is that any NMIs which exceed 5MW would become liable, but that a liable entity could notify AEMO that multiple NMIs which exceeded 5MW supply a single site, following which AEMO could assess the coincident peak demand at all NMIs identified by the liable entity as relating to one site (which would then be set as the total liable MW for that site). On that basis we would support the calculation methodology, although believe that:

- The benefits to the Guarantee of imposing this obligation on non-Market Customers are outweighed by the risks and the likely significant costs to large and industrial energy users; and
- If any threshold must be set, a higher threshold of 100MW would be more appropriate (given, inter alia, the difficulty of purchasing qualifying contracts in small parcels). We note that at 100MW, almost all load captured at a 5MW threshold would be addressed anyway (preserving the policy outcomes achieved with a 5MW threshold).

The following comments are applicable to the extent that non-Market Customers are liable above a threshold.

AEMO should make available to customers the calculated MW of peak demand for all of their NMIs, or at least all NMIs that are close to the peak demand threshold, so that a customer can monitor their NMIs and be ready for any potential future compliance obligation for NMIs that are close to but currently below the threshold.

Large energy users who are not Market Customers do not have access to MSATS or other market information platforms, and so this information must be made available in a way that non-Market Customers can access it. It is possible that an energy user will have no sites which exceed the MW threshold, but will still need this information due to having sites that are close to the threshold, so it will also be insufficient to make information available only to liable entities. To achieve this without the need for any new frameworks, and while still observing necessary confidentiality principles, an obligation could be imposed upon retailers to provide information to their customers for NMIs down to this lower threshold (in the same manner they would need to provide information for liable NMIs). The AER should be required to take into account a retailer's compliance with such an obligation when determining any penalties or compliance measures for either that retailer or any impacted customer.

Neither the Consultation Paper nor the TWPs refer to loss factors in terms of the reliability obligation. Presumably this is because all calculations will ignore loss factors and be assumed to be at the Regional Reference Node. This would be the preferable interpretation, as otherwise large customers will be forced to identify and forecast applicable future loss factors requiring an understanding of trends in network and generation development. If loss factors will be relevant to liability and compliance, then sufficient information about applicable loss factors and future trends must be provided to customers who have liable NMIs or NMIs which may become liable.

In addition to any other legislative changes that are made, there should be an amendment to the *Corporations Act 2001* (Cth) to create a new exemption from holding an Australian Financial Services Licence (**AFSL**) for any person who is not a Market Customer but who becomes a liable entity under the Guarantee, and who in order to assign or address that liability must take steps which otherwise would have required an AFSL. It would be an unreasonable burden on large energy users to force AFSL compliance.

4.9 – Step 8: Penalties

$10 million the upper limit on repeat offences.

For a customer with a single 5MW site, this penalty would represent roughly 50 times the likely cost of sufficient qualifying contracts, which we believe would be excessive. By comparison, for a large retailer such a penalty would cost less than 5% of the likely cost of sufficient qualifying contracts, which might not be effective in ensuring compliance. As with the emissions intensity obligations, we would suggest a limit based on pool purchases. For liable entities who are not Market Customers this could just be based on the MWh consumed by any NMIs that were liable based on the size threshold.