

13 May 2020

Energy Security Board
Level 26, 1 Bligh St
Sydney NSW 2000

Submitted by email to Energystategicpolicy@industry.gov.au

Independent review of the Energy Security Board

Snowy Hydro Limited welcomes the opportunity to comment on matters raised in the Independent review of the Energy Security Board.

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.

Regulatory certainty in the NEM encourages investment and competition which can be achieved through timely implementation of reforms aimed at improving market efficiency. It is therefore vital that the roles for regulatory reform are not duplicated or overlapping.

Snowy Hydro understands that the establishment of the Energy Security Board (ESB) follows a recommendation of the Finkel Review and a subsequent report by the Chief Scientist which recognised that the electricity system is in transition and that a critical turning point has been reached. With the NEM undergoing fundamental changes we welcome the ESB continuing to manage the post 2025 project with the objective of satisfying the existing National Electricity Objective (NEO). The ESB provides an opportunity to not only better coordinate but to ensure outcomes best meet consumers' needs, support investment, and promote efficient markets. This can be achieved through improvements to the ESB's decision making processes and governance arrangements. In particular, Snowy Hydro makes the following recommendations:

- 1) The ESB's post 2025 design work should not amount to a *facto* rule making power. The current rule-making arrangements in the NEM were deliberately structured to ensure that the Australian Energy Market Commission (AEMC) was independent of the other regulatory bodies. This has enabled an independent and fair rule making process. Empowering the ESB to recommend the future design of the NEM, while at the same time allowing its governance to be dominated by representatives from Australian Energy Market Operator (AEMO) and the Australian Energy Regulator (AER), risks undermining the efficacy of current arrangements. Organisations such as AEMO will inevitably have their own priorities and focus areas which may not be consistent with best-practice market design. Whatever recommendations emerge from the ESB's design work, they should be subject to independent scrutiny and should not be accepted as a *fait accompli*.
- 2) The post 2025 market design assessment should be undertaken in a considered and evidence based manner which complements the transformation of the energy sector. Snowy Hydro has been increasingly concerned that the ESB has been inadequately considering rule changes and reforms, without receiving advice from industry and other interested parties before presenting the outcomes to the COAG Energy Council.

- 3) The ESB should be obliged to follow a transparent and robust decision making framework to be informed either by a cost benefit analysis and equivalent assessment framework delivering consumer benefit. There is currently ambiguity regarding the consultation process the ESB are required to undertake when contemplating rule changes. There is a sense that key decisions have been made by the ESB without industry engagement with the result that whatever solution is proposed may be inadequate for the market, more riskier, and ultimately more expensive for consumers.
- 4) In light of the above recommendations, the governance of the ESB should be reformed. The ESB comprises a Chair, Deputy Chair and the chairs of the AEMC and AER, and the Chief Executive Officer of AEMO. Snowy Hydro understands that the group was formed to coordinate how the three energy market bodies exercise their separate accountabilities to keep pace with the rate of change. However given the expanded responsibility of the ESB in undertaking the post 2025 design work, as well the impact of proposed changes on industry and consumers, it is critical that ESB includes a representative from each of the consumer groups, generators, network businesses and retailers.

This type of model has worked well with the AEMC's Reliability Panel which reviews and reports on the safety, security and reliability of the national electricity system. The Panel is comprised of members who represent a range of participants in the NEM, including consumer groups, generators, network businesses, retailers as well as AEMO¹. As part of the Panel's work the reliability standard is assessed and the economic trade-off is made by the Panel on behalf of consumers, between the prices paid for electricity and the cost of not having energy when it is needed². This process has allowed for appropriate economic consideration of the costs on consumers and the market impacts of any changes.

- 5) Finally, the ESB should only undertake reform consultancies and rule changes for the post 2025 market design and should not be an avenue to bypass the AEMC outcomes that undertake a good-regulatory practice. Following the completion of the post 2025 market design consultancy the ESB should therefore be sunset.

We urge the independent review to carefully consider our concerns. If adequate consultation obligations are not established and fastened on the ESB, its credibility and market design work risks being undermined. We are sure you will agree that this would be an undesirable outcome for all stakeholders. Snowy Hydro appreciates the opportunity to respond to the Independent Review and any questions about this submission should be addressed to panos.priftakis@snowyhydro.com.au.

Yours sincerely,



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Snowy Hydro

¹ AEMC Reliability Panel, 2018, "Reliability Panel advice on the Enhancement to the Reliability and Emergency Reserve Trader rule change", <<
<https://www.aemc.gov.au/sites/default/files/2018-10/Letter%20of%20Advice%20from%20the%20Reliability%20Panel.pdf> >>

² AEMC Reliability Panel, 2018, "Reliability Panel advice on the Enhancement to the Reliability and Emergency Reserve Trader rule change", <<
<https://www.aemc.gov.au/sites/default/files/2018-10/Letter%20of%20Advice%20from%20the%20Reliability%20Panel.pdf> >>