Your ref: ERC0336

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Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2000
Submitted online to: www.aemc.gov.au

Dear Sir/Madam

Submission: Extension of time and reduction in scope of the 2022 reliability standard and settings review

CS Energy welcomes the opportunity to provide a submission to the Australian Energy Market Commission's (**AEMC's**) *Consultation Paper – Extension of time and reduction in scope of the 2022 reliability standard and settings review* (**Consultation Paper**).

About CS Energy

CS Energy is a Queensland energy company that generates and sells electricity in the National Electricity Market (**NEM**). CS Energy owns and operates the Kogan Creek and Callide B coal-fired power stations and has a 50% share in the Callide C station (which it also operates). CS Energy sells electricity into the NEM from these power stations, as well as electricity generated by other power stations that CS Energy holds the trading rights to.

CS Energy also operates a retail business, offering retail contracts to large commercial and industrial users in Queensland, and is part of the South-East Queensland retail market through our joint venture with Alinta Energy.

CS Energy is 100 percent owned by the Queensland government.

Key recommendations

The NEM is changing and will continue to do so as it transitions to a market with more variable renewable energy (**VRE**) and an overall lower carbon footprint. The ability to effectively and efficiently manage power system security and reliability against this evolving landscape is paramount, and CS Energy supports the need to ensure frameworks are appropriately reviewed and adapted to meet the requirements of the NEM and long-term consumer needs.

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CS Energy strongly disagrees with the rule change request and considers any change in governance of the reliability settings as setting a precedent in the NEM institutional arrangements. This concern is valid irrespective of the "one-off" nature of the Energy Security Board's (**ESB's**) proposal:

- The importance of the Reliability Panel and its role is enshrined in the National Electricity Law (**NEL**) and National Electricity Rules (**NER**). These governance arrangements ensure the appropriate independence, stakeholder representation and expertise in decisions regarding fundamental design aspects of the NEM such as the reliability settings;

- These governance arrangements ensure the integrity of the market and optimal outcomes for consumers;

- Throughout the post-2025 NEM process, the ESB reinforced that '*the ESB considers the current process whereby the Reliability Panel has responsibility to regularly review and (where relevant) recommend changes to the Reliability Standard and settings remains appropriate*.'[1] The rule change request does not provide any justification for the ESB's change in view;

- The Reliability Standard and Settings Review (**RSSR**) will need to be cognisant of any potential capacity mechanism but its scope is broader than this consideration alone. The Reliability Panel leverages its expertise to evaluate factors such as how market dynamics and consumer expectations are evolving in its holistic assessment. This assessment cannot be efficiently conducted with the proposed decoupling of the review of the Reliability Standard from the reliability settings; and

- CS Energy does not consider the proposed streamlined consultation process to be beneficial. The reliability settings are the tenet of functional markets and their review necessitates due process with direct representation from all stakeholder groups.

CS Energy's concerns are reinforced by the designation of the rule change request as non-controversial. A potential capacity mechanism has been promoted as a means to instil investment certainty in the market in light of the changing generation mix and interventions. CS Energy finds it difficult to understand how this investment certainty will arise given the rule change request represents an intervention in the legislative and regulatory governance arrangements of the NEM and its fundamental design principles.

CS Energy strongly urges the AEMC to make a more preferable rule change that:

- Upholds the role of the Reliability Panel and extends the timeframe for its 2022 RSSR to December 2022;

- Allows the Reliability Panel to assess any potential changes to the standard and settings independent of any capacity mechanism;

- Facilitates the consideration by the Reliability Panel of the design of any capacity mechanism and how it relates to the reliability settings. This reflects the intent of the capacity mechanism to let the market do the "heavy-lifting" by providing a price adder when required; and

[1] ESB, *Post-2025 Market Design Consultation Paper*, p.45

- Requires the Reliability Panel to review and endorse any price settings of the capacity mechanism prior to any recommendations to Energy Ministers by the ESB.

This approach would allow the ESB to develop a capacity mechanism holistically while preserving the governance frameworks of the market and its price settings, delivering the most efficient and effective outcome for consumers. It would also negate any concerns of a delay in enacting any recommended changes via the rule change process.

CS Energy has provided further comment in Attachment A. If you would like to discuss this submission, please contact me on 0407 548 627 or ademaria@csenergy.com.au.

Yours sincerely

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Head of Policy and Regulation (Acting)

ATTACHMENT A

Governance of the Reliability Standard and settings

The Reliability Standard and settings play vital operational and market roles and underpin the efficient functioning of the NEM. For market participants, they set the price envelope within which wholesale prices can range which protects and limits financial exposure as well as facilitating cost recovery. Their level is also set such that long-term investment signals emerge and incentivise new investment that is expected to be required to meet the Reliability Standard.

Given the role of the reliability standard and settings in investment levels, contracting, system security and the subsequent consumer outcomes, the NEL and NER establish clear governance arrangements, namely the Reliability Panel, to protect the long-term integrity of the market. The administrative functions of the Reliability Panel alone comprise of eight pages in Section 8.8 of the NER including its purpose, constitution and review process. This is a testament to the importance of the independent role to assess and recommend appropriate market settings.

The NER and NEL firmly stipulate the requirement for sector-wide representation including market participants, market customers, network businesses, retailers and consumer groups (large and small). In particular, consultation is undertaken for all members appointed to represent *Registered Participants,* with appointments only made if at least one third of the category of *Registered Participant* they represent agree. This broad (and supported) representation ensures appropriate independence and expertise across all areas and is strengthened by the Panel's broader role to review the market evolution at all levels.

In CS Energy's view, the designation of the transfer of responsibility for the reliability settings review as non-controversial is disconnected from the importance of the settings themselves and the governance framework embedded in the NER and NEL. CS Energy also disputes assertions that there will be stakeholder benefits from reducing the nature and level of consultation of the market settings. CS Energy considers any change in consultation will have detrimental impacts on the market and consumers.

The Reliability Panel is the sole body that has the independence, expertise and appropriate governance to instil market and public confidence in the decision-making process. CS Energy finds it difficult to understand how any capacity mechanism will instil investment certainty given the rule change request represents an intervention in the legislative and regulatory governance arrangements of the NEM and its fundamental design principles.

Scope of the review of Reliability Standard and settings

CS Energy agrees with ESB's statement that any proposed capacity mechanism should be considered holistically with the reliability settings but disagrees with its proposed approach. The Reliability Panel has been cognisant of the interrelatedness of any resource adequacy mechanism being considered by the ESB and has consistently offered its 'sector wide expertise' to work with the ESB throughout the P2025 process.[2] Specifically, CS Energy's concerns include:

- Decoupling of standard and settings review - The ESB's proposal includes the decoupling of the review of the Reliability Standard and the review of the reliability

[2] Reliability Panel, *Submission to ESB P2025 Consultation Paper*, October 2020 and Reliability Panel, *Submission to ESB P2025 Options Paper*, June 2021.

settings. Given their symbiotic relationship, considering the standard and settings as disparate processes will likely have unintended consequences; and

- Broader assessment - A potential capacity mechanism is only one of many considerations in reviewing the Reliability Standard and settings. In its *2020 Information Paper*[3], the Reliability Panel outlined emerging trends that need to be considered in the RSSR. This includes the need for the assessment to be broader than capacity alone to include the changing generation mix and market dynamics. The Reliability Panel has also highlighted the need to consider the increasing price elasticity of demand. In its submission to the ESB P2025 Options Paper the Reliability Panel indicated that '*technological solutions and new services for managing system security sit across the entire value chain from distribution, transmission and generating assets… and higher [demand] price elasticity may cap what consumers are willing to pay for secure system capacity'*.[4]

The Reliability Panel is best placed to holistically consider the Reliability Standard and settings.

Role of a potential capacity mechanism

In communicating the objective of any potential capacity mechanism, the ESB has indicated that the wholesale market and its settings would still do the "heavy lifting" in driving new investment with any capacity mechanism intended to be a "top-up". For example:

- *The ESB recommends that the market settings and RERT be focussed on achieving the NEM reliability standard – 0.002% USE or its replacement.*[5]

- *A capacity mechanism should bolster, not distract from, the market settings*.[6]

Furthermore, the principles set by Energy Ministers that are to underpin the design of any capacity mechanism include the ability for jurisdictions to opt-out of the mechanism.[7] This implies that the reliability settings must first hold independent of any capacity mechanism and be determined first, after which any settings for the capacity mechanism can be derived. This is confirmed by the Consultation Paper which outlines the need for the necessary recommendations for the Reliability Standard and settings in the event that Energy Ministers do not agree to the ESB's recommendations.[8]

Given the role of any potential capacity mechanism as complementary to the reliability settings, and the ESB's previous assertions that the current process whereby the Reliability Panel has responsibility to review the standard and settings remains appropriate, CS Energy does not consider there to be any justification for the rule change request.

Importance of due process

The Reliability Panel has clear governance and decision-making processes. In contrast, there is as yet no visible process for developing, evaluating and delivering a capacity mechanism and no clear avenues for the appropriate representation of all stakeholder groups.

[3] Reliability Panel, *Information Paper – The Reliability Standard: Current Considerations*, March 2020
[4] Reliability Panel, Submission to ESB P2025 Options Paper, June 2021
[5] ESB, *Post-2025 Market Design Final advice to Energy Ministers – Part B*, July 2021, p.29
[6] *Ibid* p.38
[7] Energy Ministers, *Principles to Guide Capacity Mechanism Development*, October 2021
[8] AEMC, *Consultation Paper – Extension of Time and Reduction in Scope of the 2022 Reliability Standard and Settings Review*, October 2021, p.6

CS Energy is concerned about the process for consultation with all affected stakeholder groups (which is built into the Reliability Panel process). Furthermore, stakeholder input via a broad consultation process does not replace direct representation in the decision-making process that is facilitated via the Reliability Panel's membership.

In CS Energy's view, if the ESB were to assume responsibility for the review of the reliability settings, stakeholder input from key groups including participants and consumers may not be adequately considered. This "streamlined" process would compromise the transparency and integrity of the review and thus the market, resulting in potentially adverse outcomes.

Recommendations

The Reliability Standard and settings are crucial to the efficient functioning of the NEM and the governance for their review cannot be compromised. The Reliability Panel has the required independence, broad representation and expertise to assess, and where necessary recommend changes to, the settings to reflect the changing market including consideration of a potential capacity mechanism.

The Reliability Panel should retain responsibility for reviewing the Reliability Standard and settings, with the timeframe for the review extended to align with the ESB's development of a potential capacity mechanism. Furthermore, given any potential role of the settings of a capacity mechanism within the market, the Reliability Panel should be charged with reviewing these settings and how they interact with the reliability settings. Any capacity mechanism settings developed by the ESB should require endorsement by the Reliability Panel via its recommendations.

CS Energy strongly suggests the AEMC make a more preferable rule change that:

- Acknowledges the importance of the role of the Reliability Panel and its processes in decision-making processes regarding the Reliability Standard and settings;

- Extend the statutory timeframe for the RSSR to December 2022 to align with the ESB's timeline and address its concerns. This would facilitate the Reliability Panel's previously recommended approach for it to consider potential capacity mechanisms in its process with input from the ESB; and

- The Reliability Panel would assess the Reliability Standard and settings:

    - In the absence of any capacity mechanism to reflect the NEM as an energy-only market but also consideration of the ability of jurisdictions to opt-out of the capacity mechanism; and

    - With consideration of the proposed capacity mechanism design; and

- Requires any price settings for capacity mechanisms to be reviewed and endorsed by the Reliability Panel prior to ESB recommendations to Energy Ministers.

The concerns expressed in both the Consultation Paper and rule change request about the timeliness of implementing any changes that may be required would be negated by this approach. As both the ESB and the Reliability Panel would be required to enact any changes to market settings via the rule change process, the alignment of the RSSR timeframe with the ESB process would ensure no delays.