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Monday, 22 June 2020

The Hon. Matt Kean MP
Minister for Energy and Environment
Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2001

By email: energysecurity@environment.nsw.gov.au

Dear Minister Kean,

RE: Energy Security Target and Safeguard

ERM Power Retail Pty Ltd (ERM Power) welcomes the opportunity to respond to the New South Wales Department of Planning, Industry and Environment's (DPIE) Energy Security Target and Safeguard consultation paper.

About ERM Power

ERM Power (ERM) is a subsidiary of Shell Energy Australia Pty Ltd (Shell Energy). ERM is one of Australia's leading commercial and industrial electricity retailers, providing large businesses with end to end energy management, from electricity retailing to integrated solutions that improve energy productivity. Market-leading customer satisfaction has fuelled ERM Power's growth, and today the Company is the second largest electricity provider to commercial businesses and industrials in Australia by load.[1] ERM also operates 662 megawatts of low emission, gas-fired peaking power stations in Western Australia and Queensland, supporting the industry's transition to renewables.

http://www.ermpower.com.au
https://www.shell.com.au/business-customers/shell-energy-australia.html

General comments

ERM Power supports the transition to cleaner and more efficient energy management arrangements for its customers that will ensure a more resilient and lower cost energy system for all participants. We consider that schemes like the ESS can help transform the market by providing certainty for service providers to develop business models that are scalable and sustainable. ERM's role as a generator, retailer, certificate creator, and demand response participant provide it with a multi-angled perspective in relation to such schemes.

From a retailer's perspective, a certificate-based scheme provides clear guidance to the value of activities, driving price discovery and efficient pricing so that retailers are able to offer competitive products that help customers to reduce energy usage and thereby energy costs, as well as assisting in the achievement of customers' sustainability targets.

However, from the perspective of an accredited certificate provider, there can be challenges associated with certificate creation and we consider that, for such schemes to realise their full potential, they should be administered as effectively as possible. In this regard, there should be coordination and consistency across policy design and scheme enforcement, and holistic adoption of leading standards and practices from comparable

[1] Based on ERM Power analysis of latest published information.

jurisdictions. There should also be efficient and proportionate auditing and compliance processes, and there are improvements that can be made across each of these areas.

Energy Security Target

ERM broadly supports the proposed approach to setting the Energy Security Target. While we are somewhat concerned by having the Energy Security Target overlapping with the National Electricity Market's reliability standard, we recognise that the NSW Government intends to focus on the medium term (three to six years) in assessing the need for a response. Given the Retailer Reliability Obligation (RRO) and the Reserve and Emergency Reserve Trader (RERT) provisions exist to handle reliability concerns in the short-term, it is a sensible decision to focus beyond the immediate three-year window. Similarly, we agree with the NSW Government's stance that the longer-term period (seven to ten years) is inherently too uncertain to necessarily require action now.

When assessing how to respond to any breach of the Energy Security Target, the proposed approach setting out a suite of options appears to be fit-for-purpose. ERM is encouraged that the NSW Government wishes to consider responses that minimise the costs and risks to taxpayers, that won't incentivise moral hazard, and that will account for the duration and magnitude of any breach. These principles are sound and should encourage a market response first and foremost. Ongoing government interventions in the market promote uncertainty and may be counter-productive from a private investment in supply resources perspective. Allowing the market to function without undue interference should provide the best outcomes for all NSW energy users.

As part of the range of approaches to addressing a breach of the Energy Security Target, we do consider it important for the NSW Government to clarify exactly how "a priority transmission project declaration" would work. We are principally concerned with how the costs of such a decision would be recovered. Consumers already face electricity cost pressures and further government intervention in long-lived regulated transmission infrastructure will increase the cost burden on consumers. It would be preferable for any priority transmission project declaration to be fully funded on-budget by government rather than consumers.

With respect to the information gathering provisions, ERM favours an approach that avoids duplicating existing processes. We note the consultation paper flags that the NSW Government will attempt to avoid duplication and we believe it is essential they achieve this aim. This would minimise the regulatory impact on energy businesses; the cost of which inevitably ends up being incurred by NSW consumers.

In assessing the firm capacity from generators, interconnectors and demand response, we ask that there be a strong degree of transparency on how capacities will be assessed, particularly with regards to "ageing thermal generating units that pose reliability risks". The Department has set out its approach for how to assess the contribution from wind and solar generation, meaning that it should be replicable and thus easy to verify. However, the de-rating for Liddell, and potentially other power station in the future, is too opaque at this stage to understand whether this is an appropriate response.

Finally, on the themes of transparency and consistency, we encourage the NSW Government to use AEMO's maximum demand forecasts rather than Transgrid's. ERM has expressed concern about AEMO's demand forecasts, in that they regularly exceed the kind of demand the market sees, however the changes resulting from the Forecasting Best Practice guidelines are going some way too address this. Further, this brings consistency with the forecasts used for the Electricity Statement of Opportunities which in turn underpins the Retailer Reliability Obligation.

Energy Security Safeguard

We are broadly supportive of the existing Energy Savings Scheme (ESS) and therefore support its expansion and extension, as well as the implementation of a complementary scheme focused on peak demand reduction. It will be important to ensure a well-managed transition from existing arrangements that will allow for consistent progression towards increased targets and adequate time for scheme participants to adapt to new obligations. One of the strengths of the current ESS is that liable entities can clearly identify their obligations in advance, and any target increase should be similarly identifiable.

We consider that there are promising opportunities for energy efficiency and peak demand reduction, and we are keen to ensure that uptake is not hampered by lack of clarity around the schemes. In this regard, we consider that the Department has an important role to play in terms of providing clarity and ongoing training to industry, in particular, the preparation of guidance documentation as well as the ESS Rule to ensure consistency between policy intent and implementation of the ESS Rule once drafted. While the opportunities that will be created by these broader reaching schemes are immediately desirable, a measured approach will be necessary to enable liable entities to adapt trading and billing systems, and to prevent price volatility that may undermine the schemes' effectiveness. Early accreditation of certificates may be of assistance to promote uptake ahead of formal liability.

We consider that current penalty rates are appropriate, and that it would be suitable to increase the scope of liability to gas suppliers. Any exemptions applied to small retailers ought to apply by reference to supply volumes, rather than customer numbers, to ensure that customer bases best-placed to effect energy efficiency and peak demand reduction are captured. For the ESS to maximise its impact, it ought to provide for clean fuel switching that goes both ways (i.e. from gas to electricity and from electricity to gas), and to factor in emissions reduction associated with clean fuel switching (e.g. switching to biogas). We also consider there to be merit in implementing a certificate floor price that could enhance project valuations and further increase scheme uptake.

The compliance burden associated with certificate creation within the ESS has expanded considerably in recent years, and uncertainty around measurement and verification standards persist. This has arisen due to the scheme administrator adopting an interpretation of the ESS Rule that was inconsistent with international standards and comparable methods of measurement and verification in other jurisdictions. Compliance should be based around existing audit standards and the role of the external audit panel and IPART should be clarified to avoid unnecessary replication and additional costs. More broadly, there must be consistency of interpretation of the ESS Rule between the Department and IPART, as well as across IPART's various branches.

In addition, we suggest further efficiencies could be achieved by reducing the audit requirements imposed on obliged retailers, particularly when liabilities can be assessed with AEMO data. This could be achieved with the duration between audits extended to at least every second compliance year, rather than auditing every compliance year. We consider that the ESS has great scope to reduce energy consumption via financial incentives. It is therefore important to address the administrative issues above to minimise compliance costs and so that that the ESS can realise its full potential.

From a scheme design perspective, it is important that the complementary peak demand reduction scheme mirrors the expanded and extended ESS. While the certificates relating to peak reduction will obviously differ from those related to efficiency, the mechanics of the scheme (i.e. a nominated target being distributed among liable entities, as is the case with the ESS) should be retained to ensure clarity and simplicity, and to avoid imposing an undue administrative burden on participants.

Both the expanded ESS and new peak demand reduction scheme require consistency across policy design, initial implementation, and ongoing administration. This harmonisation is essential for consistency and clarity across the schemes, which will lower barriers to entry and maximise uptake. For example, it makes sense for both schemes to apply to comparable liable entities and for each scheme to be reviewed every three years.

We think that there should be some, limited, scope to carry forward the new certificates to ensure that participants are able to manage their liabilities while the scheme is still able to incentivise capacity required to achieve peak demand reduction. We suggest a proportion of between 10-20% of certificates should be able to be carried over.

There should be robust calculation methodologies for each of the three peak reduction methods. While it may be overly complex to administer a scheme targeting nominated geographical areas, the peak demand reduction scheme ought to complement existing network services arrangements by offering an additional revenue stream for projects that support local network areas.

For these features of the new schemes to be effective, there must be clarity across industry through ongoing training implemented by the Department, with certificate providers being required to have appropriate technical qualifications. The Department should be responsible for the preparation of all scheme documentation and training, including the training of IPART resources to ensure that the schemes are administered in a manner that is consistent with their policy intent. It should also be possible for stakeholders to obtain guidance regarding the eligibility of nominated activities at an early stage to promote efficient and timely scheme uptake.

In addition, there should be accessible and well-understood avenues of redress where participants take issue with administrative decisions. We do not consider that the NSW Civil and Administrative Tribunal (NCAT), as it currently stands, represents an accessible and broadly understood avenue of redress Accredited Certificate Providers need a readily accessible pathway to challenge both administrative and technical decisions made by IPART. However, we consider that there will be greater collaboration between participants and the administrator where key performance indicators are positive and promote broad uptake of the schemes and the achievement of their underlying objectives, rather than the number of contentious issues raised in relation to the schemes.

It is important to acknowledge the absence of any federal scheme around energy efficiency and peak demand reduction, notwithstanding the AEMC's recent final determination on the Wholesale Demand Response Mechanism (WDRM) rule change, which is fundamentally different to a peak demand reduction scheme insofar as it ascribes a value to energy not dispatched, rather than payments for capacity available. Consequently, the expanded ESS and new peak demand reduction scheme have the potential to provide a welcome complement to the WDRM by incentivising available capacity that the latter mechanism will not target.

In this context, we consider that the expanded ESS and new peak demand reduction scheme should be developed with maximal consistency with the Victorian Energy Efficiency Target (VEET) scheme. The harmonisation of these schemes across the two largest Australian markets would, in our view, represent the best pathway towards a national scheme to incentivise energy savings.

If you would like to discuss this submission further, please contact Sarah Paparo on 0421 230 198.

Yours sincerely,

[signed]

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