

National Energy Guarantee – further details announced

In a Nutshell

On 17 October 2017 the Federal Government announced its proposal to adopt a National Energy Guarantee (**NEG**) though offered limited details about its intended operation. On 15 February 2018 the Energy Security Board (**ESB**), which proposed the NEG to the Australian Government, released the first public consultation paper for the NEG. The consultation paper reveals more detail around the ESB's proposal, however, a number of critical questions remain.

As detailed in our [earlier client alert](#), the NEG reportedly aims to provide a **reliability guarantee** ensuring a continuous supply of energy while also providing an **emissions guarantee** to ensure compliance with Australia's international emissions reduction obligations.

Reliability

In its consultation paper, the ESB recommends the Australian Energy Market Operator (**AEMO**) to be the body responsible for forecasting reliability gaps.

The forecast of a reliability gap in a particular region is anticipated to encourage investment in new generation capacity to meet the shortfall. If the gap remains, the requirement for retailers to source a certain portion of electricity from eligible dispatchable resources will be triggered. Finally, AEMO will secure resources to meet any gap that remains.

The Australian Energy Regulator (**AER**) is recommended to be the body responsible for monitoring compliance and imposing penalties on non-compliant retailers.

The ESB remains silent on which sources of generation should be considered to be "eligible dispatchable resources".

It will be interesting to see how the regional model operates in the *national* electricity market, being a market involving cross-state supply through the interconnected power network.

Emissions

The target

In order to meet Australia's emissions obligations under the Paris Agreement, the ESB has now proposed an emissions target of 26% below 2005 emissions levels by 2030, being the same as the current national target.

Industry members have expressed dissatisfaction with the ESB's proposed target, arguing that it is too low to encourage investment in new generation capacity, particularly within the renewable energy sector, and hence reduce power prices.

In addition, it has been argued that investors require policy certainty beyond 2030 given that the life of projects within the renewable energy sector commonly exceeds 10 years. Investors need to make long term revenue projections which is difficult in absence of policy stability.

Implementation

The ESB has not released a clear and detailed model for calculating whether the load purchased by retailers in the national electricity market (**NEM**) has met the average emissions intensity required by the target in any given year (its "electricity emission targets").

Broadly, the ESB recommends that AEMO determine whether the electricity emission targets have been met by reviewing the retailers' electricity contracts to ascertain the emissions purchased per megawatt hour (**MWh**) (after deducting any emissions "traded" to other retailers).

This model relies on contracts specifying the applicable emissions per MWh being purchased or specifying the generation source, however, certain contracts will not specify

either. In such circumstances, the ESB proposes that a default emissions level be applied.

The precise details of the method for *verifying* compliance is yet to be proposed, however, certain members of the energy sector contend that verification of the emissions per MWh actually purchased in a given period would be a complex exercise necessitating the adoption of a central registry process administered by the AER (or some other body).

Outstanding issues

Issues around the operation of the NEG remain despite further information being released by the ESB. In particular the following key matters are yet to be adequately addressed:

- How will the Government ensure that MWhs of electricity are not “double counted” i.e. how will the Government connect the physical electricity to the retailer?
- If the Emissions Intense Trade Exposed loads are excluded, how will the Government address this exclusion in order to meet the desired emissions reduction outcome and if it is addressed by way of a default emissions level, how can that be meaningfully calculated?
- How will the Government address non-NEM electricity sales (i.e. through Power Purchase Agreements) if at all?
- Which energy resources will qualify as reliable resources?
- Will generators be able to “bank” MWhs produced below the emissions intensity target?

Flow on effects for the renewable energy sector

It is anticipated by key players in the renewable energy sector that the emissions target proposed by the ESB is too low to encourage investment in the sector.

Investors are also anticipated to be discouraged by the regulator discretion with respect to enforcement (through penalties or otherwise) due to lack of certainty.

However, if generators are able to “bank” their low emission MWhs, this would be a positive for renewable energy industry participants.

Next Steps

The ESB sought submissions from industry participants following the release of the consultation paper. Submissions closed Thursday 8 March 2018. The COAG Energy Council is set to meet in April to discuss stakeholder feedback. Following the meeting, the ESB will prepare a final detailed design of the NEG which is set to be presented to the COAG Energy Council later in 2018.

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