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Energy Ministers Secretariat
Department of Climate Change, Energy, the Environment and Water
GPO Box 858
Canberra ACT 2601

Consultation – Wholesale market monitoring and reporting reforms

Energy Consumers Australia response to Wholesale market monitoring and reporting reforms

Dear Secretariat,

We appreciate the opportunity to provide comments on the Wholesale market monitoring and reporting reforms consultation.

Energy Consumers Australia is the national voice of Australia's residential and small business consumers. Our vision is that consumer values, expectations and needs are realised through a modern, flexible and resilient energy system. Our extensive survey data overwhelmingly demonstrates that consumers primary concern in the energy system relates to affordability. The present electricity market is not delivering electricity at prices consumers consider affordable, and accordingly we applaud the overall direction of the proposed marketing monitoring and reporting reforms.

Energy Consumers Australia agrees with the Department on all issues raised in the Consultation.

- Ministers should remove impediments to the Australian Energy Regulator's (AER) electricity wholesale market monitoring functions through removal of the inherent 'public information' limitations in the National Electricity Law (NEL).
- Ministers should expand the scope of the AER's wholesale market monitoring functions to include contract markets.
- Ministers should adapt the AER's expanded authority to the gas markets through amendments to the National Gas Law.

We also offer two pieces of constructive feedback.

First, Ministers should recognise the clear link between improved market monitoring and other existing policy decisions before the Parliament and Market Bodies. For example, the Australian Energy Market Commission (AEMC) is considering temporarily raising the Administered Price Cap from \$300 to \$600/MWh consistent with Alinta's proposed rule change. The likely impacts of that rule change would be materially clearer if the AEMC had access to the contract market data this Consultation proposes to provide to the AER. The changes in law should enable AER to share such information with other market bodies in furtherance of the National Electricity Objective. Furthermore, in our submission to the Energy Security Board on their Capacity Mechanism High Level Design consultation, we highlighted the importance of creating a "capacity mechanism monitor" – as colleagues overseas told us, "a capacity mechanism isn't worth having without a mechanism monitor". Ministers should consider and prepare to expand the AER's monitoring authority outside of the spot market, if and when a capacity mechanism or other essential services markets are created, noting that market bodies — and not Ministers — may be the entity who is accountable for the effective operation of such markets.



Second, Ministers should consider substantially increasing the reporting requirements and funding of the AER so that its market monitoring approach comes closer to matching international best practice. In all parts of the United States with a deregulated wholesale energy market, there is a “market monitor,” and these monitors typically have both of the distinct functions outlined below.

1. Review of the market design and recommending improvements – Offering an independent expert voice to the public and regulators/board members so they can hear from a non-interested party expert and ask for a second opinion (i.e. not the market operator and not a market participant). This role is combined with the above in PJM and some other markets. But in Ontario and California they separate out this role into a distinct “Market Review Panel” that’s an independent panel of part-time experts (well-known academics and consultants) that can offer that independent review annually to the regulators/public, as well as respond to specific questions that the regulators may have. This body provides a party to help regulators and policymakers decide between, for example, consumers who may be complaining about a particular issue, while the market operators and generators say the opposite.
2. Monitoring and preventing abuses of market power – System operators in the United States typically have both an internal and external market monitor to examine potential abuses of power. The internal role is a bit more functional (i.e. any standardised calculations of market power and related processes, performed in house, but without independence and little mandate to be controversial). The external market monitor tends to have a bit more latitude, typically complete independence from the market operator, with a role to look for any broad types of gaming and is an externally known personality that will testify in various cases. In the United States, both the internal and external monitors can identify abuses that will be flagged for Federal Energy Regulatory Commission action – similar to actions potentially taken by the Australian Competition and Consumer Commission (ACCC).

At present, the AER’s role in market monitoring and this consultation is focused exclusively on the second function. Our view is that both functions are essential, just as fully funding independent monitoring and expert design advice is essential – regulators, consumer advocates, and the public do not have sufficient funding or staff to get that level of expert advice absent a dedicated funding stream for this role. An overseas expert has estimated the typically cost of a mechanism monitor at roughly \$4 million annually. While not a small figure, it’s tiny compared to the value-add from getting even one good market design change. Such an entity has the potential and likelihood to more than pay for itself every year in the value it provides to the public and stakeholders. These market monitors also report on the market function quarterly – not every two years – as the AER does. If the AER is going to be given a larger remit in market monitoring, it should also receive the funding required to fulfill that remit.

Finally, thank you for taking the initiative to focus resources on improving market monitoring of the National Electricity and Gas Markets. Doing so is essential to improve outcomes for Australia’s residential and small business consumers.

Should you have any questions or require clarification, please contact Brian Spak at brian.spak@energyconsumersaustralia.com.au.

Yours sincerely,

Lynne Gallagher
Chief Executive Officer