

Energy Security Board

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17 August 2022

T-3 Ministerial lever for the Retail Reliability Obligation

The Australian Energy Council (AEC) welcomes the opportunity to make a submission to the Energy Security Board's (ESB) Draft Bill and Initial Rules for the T-3 ministerial lever for the Retail Reliability Obligation (RRO).

The Australian Energy Council is the peak industry body for electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. AEC members generate and sell energy to over 10 million homes and businesses and are major investors in renewable energy generation. The AEC supports reaching net-zero by 2050 as well as a 55 per cent emissions reduction target by 2035 and is committed to delivering the energy transition for the benefit of consumers.

The AEC does not support the extension into other states of the existing South Australian ministerial power to invoke a T-3 instrument. The AEC has consistently opposed this power¹ which it considers inconsistent with the intent of the RRO's design, that it should only be activated upon an objective forecast of a reliability shortfall.

As discussed in those submissions, the RRO is intentionally designed with a double gate:

- An initial signal, three years out, which invites energy participants to use market mechanisms to resolve a future shortfall forecast by the market operator; and
- A second signal, one year out, in the case where the previously notified shortfall has not self-resolved, retailers will be subject to an obligation to demonstrate adequate contracting.

The design of the RRO was always that when a shortfall arose with less than 3 years notice, other, shorter-term non-market interventions, such as the Reliability and Reserve Trader, would activate to resolve the concern. This is the correct response to such *force-majeure* events as a major plant failure occurring less than three years ahead of a summer.

The design vests with independent expert reliability forecasters to determine whether the first gate has been triggered. To trigger the first gate without a requirement for such a forecast results in an unnecessary compliance burden and limits the industry's freedom to decide how and when to contract. The costs of these burdens will inevitably be passed onto consumers.

The AEC noted in 2018 with respect to the South Australian ministerial power:

“With unfettered powers to make a reliability instrument with as little as 15 months' notice, market participants will be in suspense, awaiting a ministerial determination which may never come. This will affect their planning, purchasing, building and contracting strategies, and will lead to businesses inefficiently allocating capital and expending money to address risks which may never materialise.”

¹ See <https://www.energycouncil.com.au/media/ovyfhj5c/20181212-aec-reliability-obligation.pdf>
<https://www.energycouncil.com.au/media/olqhpwn2/20190516-aec-rro.pdf> and
<https://www.energycouncil.com.au/media/p20p5wop/20200612-aec-reliability-measures.pdf>

The reference to 15 months above related to the South Australian ministerial power at that time. The draft bill however proposes a complex timing where the ministerial power can be exercised as little as 24 months ahead for 2025/26, and then three years for subsequent years.

Whilst the longer notice for the exercise of this ministerial power is welcome in one sense, in another it seems likely to invite ministers to invoke the T-3 at that moment “just in case” an adequate reliability forecast might deteriorate in the meantime. To do so would mean the RRO was operating as effectively a single-gate model.

Consultation Paper

The AEC concurs with many the Paper’s listed Reliability Challenges in the National Electricity Market (NEM) but considers them to entirely unrelated to the amendment which transfers the responsibility of triggering RRO instruments from national institutions to state ministers. As noted in the paper “There is significant complexity to integrate energy system...”. It is not explained why state ministers are better equipped to handle that complexity than these institutions.

The paper also makes a reference to the 2022 winter energy shortage and market suspension, which was not a reliability issue and is unrelated to the peak demand conditions the RRO is designed for.

The paper claims the RRO amendment has value as a supporting policy lever to several listed reliability challenges. However, this argument misses the point that the RRO was not designed for circumstances where reliability forecasts unexpectedly decline with less than three years notice. In that vein, the paper has not engaged with why the first gate, T-3, exists in the first place.

The paper has listed at Table 1 historical incidences of triggering the T-3 instrument. As it shows, despite reliability forecasts being adequate, the South Australian minister found the temptation too strong and triggered the instrument for 2022 and 2023, creating costs for the industry now passed onto South Australian consumers. As reliability forecasts continued to remain satisfactory, the instruments were eventually revoked. This outcome demonstrates the futility of these triggers.

The paper has not engaged with the costs imposed by such spurious triggering.

Long-term role of Retail Reliability Obligation

The ESB is committed to introducing a capacity mechanism into the NEM by 2025. In its high-level design paper², the ESB states:

“The proposed capacity mechanism design would replace the existing RRO. It will eliminate the administrative costs imposed on retailers and capacity providers (such as from submitting their contracts to demonstrate compliance or via the MLO) by that scheme.

The T-3 amendment bill appears to be applicable from the 2025/26 summer. There is therefore a logical inconsistency between the ESB’s intentions regarding the capacity mechanism and this bill. The AEC considers that at a time when the ESB is developing a capacity mechanism, it should:

- not be distracted by further developing the mechanism that it is to replace; and
- not be adding additional regulatory burden and costs without benefit.

The AEC notes an inconsistency between the two ESB papers. In the high-level design paper the ESB argues that eliminating the costs of complying with the RRO will be one of the benefits of replacing it

² <https://www.energy.gov.au/government-priorities/energy-ministers/priorities/national-electricity-market-reforms/post-2025-market-design/capacity-mechanism/post-2025-market-design-capacity-mechanism-high-level-design-consultation-paper-june-2022> Page 69

with a capacity mechanism. Yet in the amendment bill consultation paper, there is no mention of these costs, even though the amendment seeks to increase the prevalence of RRO activation.

In conclusion, the AEC submits that this amendment bill is a costly distraction from the ESB's overall policy direction and should not be progressed.

Any questions about this submission should be addressed to me directly, by email to ben.skinner@energycouncil.com.au or by telephone on (03) 9205 3116.

Yours sincerely,



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