



Dear Ms Collyer,

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

The Smart Energy Council is pleased to provide a submission to the rule change request lodged by Kerry Schott as Chair of the Energy Security Board (ESB) for 'Extension of time and reduction in scope of the 2022 reliability standard and settings review'.

In our earlier submission we outlined that the Smart Energy Council believes that the proposed rule does not meet the definition of a non-controversial Rule under section 87 of the National Electricity Law (NEL) and therefore it cannot be subject to the expedited rule making process under section 96 of the NEL. This submission focuses on the two substantial matters of the rule change.

1. Extension of time for the 2022 Reliability Standards and Settings Review

The Smart Energy Council has no objections to the proposal to amend the National Electricity Rules (NER) to allow for the current Reliability Standards and Settings Review to be completed by 30 June 2022, rather than 30 April 2022, given the delays resulting from the Energy Security Board's post-2025 market design.

2. Transfer of reliability settings to the Energy Security Board

Energy Ministers have agreed that the Energy Security Board should undertake further work on the development of a capacity mechanism for the National Electricity Market. It is appropriate that this work proceed, but not that it impact the legislated role of the Reliability Panel.

The Energy Security Board is proposing that the Panel not review the reliability settings (the Market Price Cap, Market Floor Price, Cumulative Price Threshold, Administered Price Cap) as part of its current review, regardless of whether or not any capacity mechanism proceeds.

As we noted in our previous submission, this proposal is totally unprecedented. The reliability settings are a core part of the Reliability Panel's role and have not been set by any other body as long as the Reliability Panel has been established.

The Reliability Panel's role is enshrined in the National Electricity Law. The Law states:

38 (2) The functions and powers of the Reliability Panel are—

- (a) to monitor, review and report on, in accordance with the Rules, the safety, security and reliability of the national electricity system; and
- (b) at the request of the AEMC, to provide advice in relation to the safety, security and reliability of the national electricity system; and
- (c) any other functions and powers conferred on it under this Law and the Rules.

THE INDEPENDENT BODY FOR THE SMART ENERGY INDUSTRY IN AUSTRALIA

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Clearly, it is the Reliability Panel (and no other body) that is given the responsibility to review the reliability settings.

In addition, the Law and Rules set up the Reliability Panel as a body of experts. It comprises [members](#) who represent a range of participants in the National Electricity Market, including small and large consumers, generators, network businesses, retailers and the Australian Energy Market Operator (AEMO). The Reliability Panel's role is clear in the law and the rules whereas the Energy Security Board has no legislative basis.

The ESB is requesting that major decisions about the nature of the national electricity market be given over to itself, when it is a body with no legislative authority, no written governance rules and no requirement for transparency.

Also, as noted in our previous submission, billions of dollars of investment will be influenced over the following four years by the 2022 reliability price settings.

The ESB's rationale for this change is to 'avoid the Panel potentially making recommendations on settings that are inconsistent with any future market design'. However, in the case a capacity market does not proceed, this argument is nonsense.

The Panel must have the ability to consider the reliability standard and settings together in the event that a capacity mechanism is not introduced. To force the Reliability Panel to consider only the standard, but not the settings is to incapacitate the Panel in undertaking its legislated role. The reliability standard and settings must be considered together to ensure the best long-term interest of consumers.

To set the reliability standard without consideration of the costs for consumers that might result—which relate to the Market Price Cap, Market Floor Price, Cumulative Price Threshold, Administered Price Cap is not only foolish but potentially threatens the entire legitimacy of the process—with negative consequences for investment in the NEM.

In a week when we have seen Meridian exit the NEM due to policy uncertainty, it would harm the reputation of the AEMC and the NEM further to approve the handover of the reliability settings for the 2022 from the Reliability Panel to the Energy Security Board.

The Reliability Panel has a broad cross-section of members including the AEMC and AEMO, whose members, and the areas of the market they represent, are directly affected by changes to the reliability standard. The ESB's membership does not have that same diversity of perspectives and should not be tasked with reviewing the reliability settings.

We would welcome the opportunity to speak with the Commission about this matter.
Sincerely,



John Grimes
Chief Executive
Smart Energy Council

29th November 2021