

# *National Energy Guarantee Draft Detailed Design Consultation Paper*

Submission by the Australian Council of Trade Unions to Energy Security Board and the Department of Environment and Energy in response to the National Energy Guarantee Draft Detailed Design Consultation paper and the accompanying Commonwealth Elements paper.

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## About the ACTU

Since its formation in 1927, the Australian Council of Trade Unions (ACTU) has been the peak trade union body in Australia. There is no other national confederation representing unions. For 90 years, the ACTU has played the leading role in advocating in the Fair Work Commission, and its statutory predecessors, for the improvement of employment conditions of employees. It has consulted with governments in the development of almost every legislative measure concerning employment conditions and trade union regulation over that period.

The ACTU consists of affiliated unions and State and regional trades and labour councils. There are currently 46 ACTU affiliates. They have approximately 2 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.

The ACTU is pleased to make a submission in relation to the National Energy Guarantee (NEG) Draft Detailed Design Consultation paper<sup>1</sup> (the ESB paper) and the National Energy Guarantee Draft Detailed Design for Consultation Commonwealth Elements paper (the Commonwealth paper).<sup>2</sup>

This submission is in response to both papers.

Workers will be directly impacted by the NEG, should it be finalised and implemented, both as consumers and as many tens of thousands whose jobs either in the energy sector or reliant on affordable, reliable and sustainable electricity supply.

The ACTU supports the submissions of its affiliates to this consultation.

## Consultation Timeframes

We would like to place on record our dissatisfaction with the consultation timeframes.

The current papers were publicly released on 15 June 2018 and requested feedback and submissions by 6 July 2018 for the Commonwealth paper and 13 July 2018 for the ESB paper.

That means stakeholders have been given less than a month digest, consider and respond to both papers, which followed directly on from the release of fourteen issues papers on 22 May 2018.<sup>3</sup>

This has been further compounded by the release of the National Energy Guarantee: Consultation Regulation Impact Statement on 2 July 2018.<sup>4</sup>

That is manifestly inadequate and makes a mockery of the word 'consultation' and is particularly biased against small, not-for-profit organisations with limited resources engaging fully in the consultation process in a way that best serves their members interests.

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<sup>1</sup> <http://coagenergycouncil.gov.au/publications/energy-security-board-%E2%80%93-draft-detailed-design-national-energy-guarantee-consultation>

<sup>2</sup> <http://coagenergycouncil.gov.au/publications/national-energy-guarantee-draft-detailed-design-commonwealth-elements>

<sup>3</sup> <http://www.coagenergycouncil.gov.au/publications/energy-security-board-national-energy-guarantee-issues-papers>

<sup>4</sup> <http://www.coagenergycouncil.gov.au/publications/energy-security-board-%E2%80%93-national-energy-guarantee-consultation-regulation-impact>

Ensuring proper consultation is more important than meeting a timeframe that has been imposed by government that has the electoral cycle placed above proper consultation as part of the policy development process.

In our view the consultation process around the NEG has been rendered, at best, tokenistic due to the utterly unrealistic timeframes involved.

## ‘Detailed’ Consultation Papers

The papers are ‘detailed’ in name only, providing scant of it on some important technical areas.

For example, while it is proposed that the calculated emission intensity of a particular retailer’s load could differ from the emission intensity of the electricity they actually purchased given that the contracts could be between different parties, there is insufficient details on how it would operate, other than to say it appears to be an Emissions Intensity Scheme that is separate from actual electricity generated by placing the obligation on retailers, with the aim that there should be liquid/deep markets in both.

Similarly, there is insufficient detail around the Market Liquidity Obligation (MLO), which requires gentailers to place some proportion of their generation capacity into the open market (rather than dealt off-market with their retailing arms) in periods when the reliability obligation has been triggered.

We still hold concerns that the NEG will further entrench the market dominance of large retailers which will drive up costs for consumers.

If it remains unclear as to what proportion of their generation capacity the large gentailers would be required to be placed on the open market during a period where the reliability obligation had been triggered. If the MLO is set low, it could indeed strengthen the power of the three dominant gentailers.

This is a concern that is still held by a range of industry participants and stakeholders and sits alongside concerns about impacting market liquidity and increased cost.

## Emissions

The ESB paper outlines an intention that the emissions constraint will be set each 5 years for 5-10 years into the future. Consequently, that means when the NEG first comes into operation, the emissions constraint will be set for 2021 to 2030, ending up at the 26% reduction on 2005 levels by

2030. In 2025 the levels for 2030 to 2035 will be set. And so on, with no provision for reconsideration of targets that have been set.

While we acknowledge that the government of the day has the power to set future emissions targets, we would be remiss not to put on record our dissatisfaction of the current targets of 26-28 per cent on 2005 levels by 2030.

Australia's climate targets should be consistent with our Paris commitment to keep global warming below 2% and should be based on advice from competent authorities. This is directly relevant considering the NEG is an attempt to combine energy and climate policy into a single mechanism for the electricity sector.

We are particularly concerned that the apportioning of emissions reductions applies an economy wide national emissions reduction target via the NEG on a flat, like-for-like basis to the electricity sector (ie 26-28 per cent). This is particularly important when considering the energy sector has developed mature low or zero emission technologies and a lower economic emissions abatement cost per unit compared with most other industries and sectors.

## Non NEM Jurisdictions

The NEG is only applicable to NEM jurisdictions, therefore excluding Western Australia and the Northern Territory.

Yet, Western Australia and the Northern Territory will need to undertake their share of energy sector emissions reductions as part of the overall national targets of 26-28 per cent on 2005 levels by 2030. There is clearly a glaring gap.

Until the emissions arrangements for non NEM jurisdictions are made public, consulted on, and finalised, it would be premature and flawed policy to finalise the NEG.

## Offsets

With respect to the possibility of allowing the use of offsets, we consider there to be no compelling rationale for the use for offsets within the NEG.

Allowing offsets would simply increase uncertainty levels, due to the lack of known details, and therefore deter investment.

Additionally, reliance on carbon permits to meet Australia's emissions targets under the NEG would act as a disincentive for investment in domestic technologies, innovations and projects to transition Australia to a low carbon economy.

Therefore, we submit that there should be no access to external offsets.

## Just Transition

We note with ever increasing disappointment that our representations on Just Transition during the NEG consultation process has not resulted in any progress.

The fundamental issue is still that the mandate given to the ESB through the NEG mechanism does not provide for any consideration of Just Transition or even equity impacts in general.

It appears that Just Transition is simply not on the agenda.

Australia has several regions – the Latrobe Valley, Hunter Valley / Lake Macquarie, Lithgow, Rockhampton/Gladstone and Collie – where the workforces associated with power generation and heavy industry are a significant part of the local economy and where their loss will have large adverse impacts.

The Australian Council of Trade Unions and its affiliates have strongly argued that enabling the major power system restructuring that is required to meet climate as well as energy goals will have adverse impacts on particular workforces, communities and regions notwithstanding that the overall benefits may be positive. Unions have argued for Just Transition programs to manage these impacts.<sup>5</sup>

In the energy transition, an absolute priority for Australian Unions is ensuring a just transition for affected workers and communities. The sudden closure of two foreign owned private generators in, Alinta's operations in Port Augusta in 2016 and Engie's Hazelwood power station in 2017, illustrate the inadequacy of an unplanned transition in this sector. Both were sudden and came with disruptive impacts on workers and their community.

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<sup>5</sup> ACTU (2016), Sharing the challenges and opportunities of a clean energy economy: a Just Transition for coal-fired electricity sector workers and communities, Melbourne. <https://www.actu.org.au/our-work/policy-issues/actu-policy-discussion-paper-a-just-transition-for-coal-fired-electricity-sector-workers-and-communities>

We understand and acknowledge that the NEG is being developed with the intention that it will work not in isolation, but with a raft of other measures and policy mechanisms, including the accepted recommendations of the Finkel Report, but the fact is that there are no measures towards ensuring a Just Transition for the energy sector in the NEG or the wider suite of proposed policies.

We would urge the ESB, in concert with other energy regulators and relevant government agencies, engage in urgent actions to start to plan to address just transition within the energy sector, and note that Finkel Review Recommendation 2.12 relating to ensuring by mid-2019 a national assessment of the future workforce requirements for the electricity sector to ensure a properly skilled workforce is available, would in addition to the three year notice of closure rule, be a sensible place to start.

We cannot, and will not, accept the absence of Just Transition policies given they are such a critical part of the required energy policy framework.

## Conclusion

Australia's energy rules are broken and continuing to shape the industry to favour business over consumers, workers and the community will never adequately address the issues of reliability, dispatchability and affordability.

We are still of the view that that the NEG will:

- a. Increase prices;
- b. Entrench market power of large retailers (particularly gentailers);
- c. Have difficulty enforcing both emissions and reliability requirements; and
- e. Do nothing with regards to achieving a Just Transition for the energy sector.

While these issues remain, we are not in position to support the NEG.

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