

NEM WHOLESALE MARKET SETTING REVIEW DRAFT REPORT

17 SEPTEMBER 2025

INTRODUCTION

The Energy Users' Association of Australia (EUAA) is the peak body representing Australian commercial and industrial energy users. Our membership covers a broad cross section of the Australian economy including significant retail, manufacturing, building materials and food processing industries.

Combined our members employ over 1 million Australians, pay billions in energy bills every year and in many cases are exposed to the fluctuations and challenges of international trade.

Thank you for the opportunity to make a submission to the NEM Wholesale Market Settings Review Draft Report (the Draft Report).

The EUAA are broadly supportive of the directions of the Draft Report. It is increasingly apparent that many elements of the energy market of the past can't cope with the vastly different structure of the energy market of the future. While doing nothing is not an option we don't believe a radical re-design is necessary or desirable given the disruption and cost that would likely result.

We believe the recommendations in the Draft Report largely strike the right balance between maintaining the elements of the existing market that will continue to be fit for purpose (with some relatively mild adjustment) and the need for longer-term support for the assets and services required to maintain a functional, efficient and resilient energy market.

We see the work being undertaken to date and what is likely to be presented before ministers for endorsement towards the end of this year, as developing the architectural drawings of the new wholesale market. Once approved, we envisage additional work will be required to bring these plans to fruition and urge policy makers to adopt inclusive and transparent processes with an appropriately broad set of stakeholders to bring this about.

While broadly supportive, members have expressed a strong desire to learn more about the key aspects of the proposed design, especially the operation of the ESEM, out of market reserves and the role and potential obligations of large load as a price responsive resource.

We commend the NEM Review Panel on their work to date and the manner in which they have engaged with stakeholders, especially given the time pressure to deliver the final report by the end of 2025.

RECAPPING OUR KEY THEMES

In our submission to the initial consultation we advocated for consumer focussed outcomes from this review. This requires moving away from an input focussed debate to one that balances the need to enable efficient deployment of inputs with the affordability, reliability and sustainability outputs consumers want.

In service of the objective we put forward a range of consumer focussed themes.

Government v Market

The review must seek to resolve a fundamental question, being do we want governments or markets to be the primary driver of investment and consumer outcomes that are consistent with the NEO?

Recommendations in the Draft Report lean heavily into the reality that while we are striving to build efficient markets to solve short to medium-term issues, the requirements for long-term certainty of investors and the desire of jurisdictions to maintain a level of control over system reliability and resilience means that the hands of governments will remain firmly on the wheel.

While not in the scope of this review, a lingering question remains. At what point do we believe the energy industry will be able to sustain itself without the constant need of some form of government or consumer funded support?

The current recommendations in the Draft Report would indicate that some form of government or consumer funded support will continue to be a feature of the energy market for some time to come with no clear glide path or end date in sight.

Consumers are focussed on outcomes not inputs

All too often policy and market design is heavily influenced by those who provide the inputs (i.e. technology, finance). While ensuring market design supports investment, it is equally important that it doesn't come at an undue cost or risk for consumers who are far more focussed on the outputs of the energy system such as affordability, reliability and sustainability.

We strongly advocate for a consumer first, outcomes driven approach that reflects the NEO. Unfortunately this is not always reflected in the debate over policy and regulation where technology providers of the inputs argue for special support for the particular widget they want to sell with consumers or taxpayers required to foot the bill.

The Draft Report recognises this and seeks to balance the needs of those who provide "inputs" to the needs of consumers who desire services from the market. We see this as a work in progress, especially as it concerns equitable allocation of costs and risks between supply and demand sides of the market.

The NEM is a single ecosystem

We often describe different user classes in the NEM such as residential, small to medium enterprise or commercial and industrial, as if they are operating in separate markets. They are not. They are all part of the same NEM

ecosystem where the actions taken to change behaviour of one customer class (i.e. supporting CER such as solar PV or electric vehicles) can have serious consequences for other customer classes or market participants.

While the Draft Report recognises this “single ecosystem” approach they also recognise that much of this work is being undertaken outside the strict scope of this review. However, we can see elements of the Draft Report that seek to facilitate and coordinate the big system (bulk energy) with the small system (CER). We urge the Panel and market bodies to maintain a coordinated approach to designing integrated, ecosystem wide solutions.

Future Market Design

We strongly advocated for the Review to consider recommendations for a future market dominated by VRE (i.e. 85%), with interim measures in place to address particular market failures brought about by the energy transition. It is our strong desire for government and consumer funded support to be progressively withdrawn from the market which at some point must deal with its own risks and costs and deliver an energy product that is fit for purpose for consumers.

We also encouraged the Review to consider scenarios where government timelines for renewable energy deployment are not met so we can better understand what interim measures may need to be undertaken to maintain system security and availability of supply to meet consumer demand. We believe this would represent a prudent and responsible approach during the messy middle of the energy transition.

In looking at the different timeframes (short, medium and long-term) and the challenges of each, the Draft Report seeks to ensure a functional market quickly evolves for essential services such as shaping and firming without explicitly making recommendations about the need for adaptability should 2030 targets not be met. We accept these decisions are more of a political rather than a technical nature.

While we can see merit in the ESEM approach we need to ensure that the detailed market design results in an equitable allocation of the costs and risks associated with the transition to net zero, as all too often energy consumers are expected to carry the heavy weight of market (i.e. shareholder and/or debt providers) risk that should sit with market participants.

We firmly believe that this transfer of risk from market participants to consumers is inconsistent with the NEO. Equally, if governments desire a higher level of certainty and/or control than what consumers would be reasonably prepared to pay for then governments should shoulder this burden, not energy users.

We also welcome the recognition that a wide range of technologies should be given equal access to energy markets. We maintain, as does AEMO, that gas will play a critical role in a NEM dominated by VRE generators.

RESPONSE TO RECOMENDATIONS

RECOMENDATION	EUAA RESPONSE
1. Maintain the real-time regional energy-only spot market as the core market for efficient dispatch and rewarding the provision of physical energy services	<u>Agree.</u> With the relatively mild changes as described in the Draft Report, the current real-time energy only spot market will continue to be an efficient means of dispatching energy. We would be concerned that if significant changes to spot markets were pursued the resultant increases in risks and costs would likely outweigh any lasting benefit, especially given the key concerns lie in medium and long-term timeframes which are being dealt with through other recommendations. We also note, as does the Draft Report, that significant innovation is already occurring at distribution level with the development of dynamic operating envelopes and dynamic network tariffs that leverage technologies that are already being deployed by customers that will help alleviate localised constraints and short-term market volatility
2. Energy Ministers should require a broader range of price-responsive resources to be visible or dispatchable to participate in price formation.	<u>Generally Agree.</u> As the generation fleet becomes more dispersed, including significant volumes of behind the meter technologies impacting short-term markets, it is increasingly important that the market operator has a degree of visibility and some degree of control. The problems are twofold, volatile pricing and declining system stability. Without reform in this area we will see an increasingly volatile short-term market while the market operator will be forced into ever increasingly drastic action, using blunt instruments like the existing ‘back-stop mechanism’ to manage grid stability. This does not mean visibility at an NMI level is required (although individual customers should be incentivised to manage load via tariff reform) but via logical aggregation points such as financially responsible market participant (FRMP) or at key points within the local distribution system such as community scale batteries. We recognise that without this visibility and with rapidly expanding CER, the market operator is flying the plane with one eye closed. It will be important to have the correct price signals to ensure the resources are used for the benefit of participants and to reduce short-term market volatility which will benefit all consumers. However, there are a number of concerns raised by EUAA members regarding the proposal that large loads be “visible” at all times through the dispatch mode framework. The costs associated with this are difficult to understand, however this may be resolved as more detailed discussion is undertaken. Members are also concerned that this may lead to the <u>requirement</u> of large loads to participate and the ability of the market operator to direct them into a load shedding mode. Our current understanding is that this is not the case but further clarification would be beneficial. It is important to note that some EUAA members currently participate in the short notice RERT which allows them a high degree of flexibility while others are engaged in various load shedding and cost/benefit sharing arrangements with retailers. The important distinction is that these actions are taken at the discretion of the customer who make conscious trade-offs based on risk and reward. In the case of a

	retailer led approach, the retailer takes on the market obligations and a degree of risk with the customer taking a lower return in exchange for this. One of the other lingering issues associated with large loads participating in demand response is the uncertainty of the revenue stream. Historically, the benefit of demand response disappears quickly as more MW are bid into the market. This makes it difficult to build a business case to justify the expense and time that many would incur to enable a more active role. We would be interested to understand how a more bankable revenue stream could be made available via the ESEM approach. EUAA members are seeking further clarification of the nature and costs associated with this recommendation and any future obligations that may be enforced.
3. Governments should focus reforms and support for CER on facilitating market participation to enable consumers to benefit from being price responsive.	<u>Agree.</u> We support the work of the National CER Roadmap.
4. Market bodies should use the rule change process to ensure the efficient and competitive functioning of the real-time energy-only spot market.	<u>Agree.</u> We have become aware of issues associated with algorithmic bidding and re-bidding behaviour of some grid-scale battery resources. With significant volumes of grid-scale batteries continuing to grow combined with the use of AI, policy makers need to manage this growing problem. We are always supportive of more market information to facilitate better decision making by participants so are supportive of publishing battery state of charge details. Minimising the impact of transmission outages is a worthwhile objective but given the highly dispersed nature of the new generation fleet, it is virtually impossible to take a transmission line out of service and not have a market impact. We support work already underway to resolve this impasse and deliver a fair and reasonable framework of transmission service providers.
5. The Reliability Panel should consider adjusting the form of the market price settings.	<u>Generally Agree.</u> We are not opposed to the Reliability Panel considering a new form of market price settings of up to 15 years but wonder about the reliability of a 15-year setting, especially given the volatile nature of the energy system. One issue that continues to raise concerns for consumers is the ever escalating MPC. The MPC is designed to represent the cost of the last MWh to meet the reliability standard/last MWh of consumer demand. Given new approaches recommended in the Draft Report including the ESEM and state based out of market reserves both of which are focussed on the adequacy of supply and services, we believe there is a strong case to reduce the MPC, not increase it. A high MPC, ESEM (alongside the CIS) initiatives to encourage demand side participation and out of market reserves all appear to serve the same objective and all appear to add layers of costs. Based on discussions with a number of our members there is a view that the rules governing the Reliability Standard and Market Price Setting Review process should be amended to specifically require the Reliability Panel to include all revenue sources that exist outside of the energy only-market, including payments from

	ESEM, other jurisdictional schemes, and other NEM markets, when setting the wholesale market settings. We understand this is a current point of contention within the Reliability Panel, with market participants continuing to argue that the MPC must be set to allow new generation to be built without any additional support, despite the fact that almost nothing has been built for many years without Government support. There is a view that this is leading to consumers paying twice for new generation, once via the direct assistance and again via a high MPC It is our strong recommendation that the MPC is lowered significantly once these other mechanisms are in place.
6. Energy ministers should establish and always-on market making obligation (MMO) in the National Electricity Law/National Electricity Rules (NEL/NER) for a small number of key derivative contracts in each NEM region, with contract types determined through a co-design process with the AER and industry.	<u>Generally Agree.</u> We are observing a decrease in market liquidity with increasing levels of variable renewable energy (VRE) and decreasing levels of dispatchable generation. South Australia is already facing this situation. This will progressively impact other jurisdictions over the coming years. Therefore, we support the introduction of an always on Market Maker Obligation (MMO) and would support the removal of the existing RRO. We are interested to better understand the positive role that a commercial market maker could have, especially the potential to create more competition and/or guard against market power issues. Some EUAA members have expressed concerns that they may be required to have an MMO obligation. It must be recognised that just because they are large loads does not mean they are set up to be active (i.e. daily) energy market participants. If required to participate, large customers would either need to establish their own in-house trading and risk functions or sub-contract this out to a commercial market maker or other entity, which in-itself defeats the purpose of their involvement. In any case, large loads are already incentivised to enter into multi-year contracts that secure reliable supply of energy so any obligation under an MMO regime seems superfluous. Therefore, we recommend that large loads not be included in the market maker obligation. Some EUAA members have also expressed concern about the significant barriers to exchange trade of derivative contracts due to the exit of clearing providers from the energy market and the inability for participants to find a clearing provider prepared to work with them. They view this inhibits derivative market liquidity and price transparency and welcome further exploration of steps to address this key market deficiency including exploration of a centralised clearing service.
7. Ensure sufficient market information is available to support longer-term derivatives market liquidity and price discovery.	<u>Agree.</u> We support the extension of the MTPASA from 3 years to 5 years.

8. Energy ministers should establish an Electricity Services Entry Mechanism (ESEM) within the National Electricity Law (NEL) to facilitate investment in the NEM.

Agree. We acknowledge that despite many years of government and energy user support that investment in the long-term resources the market needs continues to be challenging. Along-side other measures proposed in the Draft report such as the MMO, the ESEM appears to be an efficient way forward that will help bridge the “tenor gap” and is the most consequential of all the recommendations being made in the Draft Report

While the ESEM is still a work in progress it is important to understand what it is and what it isn’t. For the avoidance of doubt we provide the following explanation.

- It is an approach that seeks to resolve the tension between providers of new firming, shaping and bulk energy services that need 15-20 years of revenue certainty to obtain project finance and the reluctance of buyers to enter into a long-term agreement of similar length.
- The ESEM administrator will enter into contracts with these service providers ensuring there is a high level of transparency of the contracts it holds and that the contracts themselves are “highly fungible” to facilitate ease of trade and contract recycling.
- The ESEM administrator will then recycle these contracts back into the market at any time, including where buyers and sellers require them.
- Transparency on the various products in the warehouse and the fungible nature of these products will be crucial as will the governance arrangements.

Another concern has been raised that we may see the market separate because of ESEM? It is our understanding that isn’t the intention and would only be a risk if transparency and fungibility are insufficient. Again, for the avoidance of doubt:

- There is nothing stopping buyers and sellers from entering into long-term agreements outside of the ESEM arrangements should they want to.
- Buyers and sellers who have a multi-year agreement can also negotiate an extension of the existing agreement and advise the ESEM warehouse who would facilitate the recycling of the contract to the parties involved. However, some members have said that this assumes the seller can revoke an ESEM contract and resell it. Commercially, a generator would only do this if it allowed them to sell at a higher price. If the ESEM contract is for a price higher than the current forward market they would commercially leave the contract with ESEM (i.e. it’s out of the money to the Administrator). This recycling mechanism needs to be carefully understood].
- Just because the ESEM warehouse is holding the contract doesn’t mean that negotiations between existing buyer and seller cease, in fact this should be encouraged as it reduces the risk that the ESEM warehouse is holding (and cost to consumers).
- Buyers and retailers can approach the ESEM warehouse and negotiate directly with them. Members have identified that only very large sophisticated buyers would want to enter derivatives. They ask what’s the purpose of holding a derivative in the future? Most large users that have them now, only have them because they entered a PPA to gain the rights to

claim the renewable electricity. If they didn't need to claim renewable electricity, almost no customer would have any need to directly hold a derivative against the spot price. All consumers want the retailer to give them a firm price, which may require the Retailer seeking additional derivatives from the ESEM warehouse. But we don't know how this recycling is proposed to work.

In addition to the above, EUAA members have raised the following concerns.

- A number of members have expressed a need to understand what is meant by "recycle" i.e. will retailers be mandated to buy these contracts. This is important, because we need to understand who pays for out of the money contracts and the methodology associated with cost recovery.
- We have been advised that it is not the intent for the ESEM administrator to act as a trader but a contracts warehouse that is storing various products (firming, shaping and bulk storage) and has an incentive to re-sell these products as soon as possible at a price that at the very least allows them to break even. Despite this, some members continue to express a concern that the administrator will be seen as acting as a trader who has no underlying physical position to offset the risk of the derivative they are entering into. The administrator is holding buy derivatives despite having no customer load. Questions remain regarding who bears the cost for the administrator incurring losses? How are the contracts unwound back to market? How does the administrator manage risk, when every contract it enters increases its market risk?
- What if all recycled contracts in a certain year are not purchased? How long can the ESEM administrator hold them? There still needs to be an incentive for the generator/seller to continue to engage in the market and penalties if they don't. This isn't meant to work like a 20-year CFD but as a warehousing arrangement.
- What happens when contract recycling occurs and the impact of the volume coming back into the market might have on wholesale prices. In time, when volumes of product in the warehouse have built up, aggressive recycling could push wholesale prices lower, which is not a bad thing, but it means the entity will be increasing the financial risk it is holding (i.e. contracts struck at higher prices now facing lower wholesale prices during recycling). Could this lead to a form of death spiral?
- Cost recovery still needs to be resolved however we should recognise that the net benefit of lower wholesale prices should, in theory, offset the gross costs the cost recovery. This is one of the areas to undertake some scenario modelling.
- It has been suggested that the ESEM Administrator should also be required to provide mark to market reporting on the same basis that existing market participants need to account for in the financial reporting. This will reveal whether the contracts entered into become out of the money i.e. were purchased at higher prices than where the market is currently trading.

A number of members have stated there should be consideration for those customers who have entered into long-term agreements for firm delivery of energy.

	In essence they have “self-insured” against the risks the ESEM seeks to cover. Our recommendation is to consider an exemption or rebate model to ensure those that are assisting in resolving the problems ESEM seeks to resolve are not being charged twice; once via the contracts they have entered into and secondly by paying for ESEM cost recovery. A number of members are also seeking clarity on the out of market reserves which appear to be an “belts and braces” requirement of state energy ministers which on one hand is understandable but it could add substantial costs. Our current assumption is there will be an annual standby/capacity fee (to cover the Cap-ex) paid to the provider (we assume it’s mostly GPG) and access to the MPC when dispatched (to cover fuel costs). However, members note that a cap contract has a premium which would provide an annual revenue source to the firming generator. Whatever the contract structure is for “firming” i.e. GFG and Hydro (and perhaps “shaping” i.e. batteries), they will presumably have fixed revenue payments to the generator. This allows ESEM to operate as a de-facto capacity mechanism based on targets set by each jurisdiction for different generation technologies, which requires the administrator to enter into the ESEM contracts.] There is a view that if state energy ministers need a higher degree of control and certainty then the cost should sit on the state balance sheet and not recovered from consumers. At the very least the state balance sheet should cover the standby/capacity fee and consumers cover the fuel costs when dispatched. Either way this requires and bit more discussion. Given the level of uncertainty in the minds of members we strongly recommend that the Panel works with stakeholders, including EUAA members, on a number of scenarios to test the current assumptions on how the ESEM works in practice. By working through these scenarios we hope that many of the questions being raised will be answered and doubt erased.
9. Governments and market bodies in the NEM should pursue a coordinated suite of reforms to ensure regulatory settings, the innovation ecosystem and existing policies and programs are aligned with the ESEM.	<u>Agree.</u> We agree with the recommendations in this section of the Draft Report. We have become increasingly concerned with the disaggregated nature of policy and regulatory responses in the NEM. This is creating complexity and additional costs for consumers. Any and all efforts must be to have a truly coordinated approach to achieving net zero, rather than a state-by-state collage of responses and ambition.