



**EnergyAustralia**

EnergyAustralia Pty Ltd  
ABN 99 086 014 968

Level 33  
385 Bourke Street  
Melbourne Victoria 3000

Phone +61 3 8628 1000  
Facsimile +61 3 8628 1050

enq@energyaustralia.com.au  
energyaustralia.com.au

12 June 2013

Manager  
Energy Markets Unit  
Infrastructure Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Lodged (by email): [ESCSecretariat@treasury.gov.au](mailto:ESCSecretariat@treasury.gov.au)

**Australian Securities and Investments Commission amendment regulation 2013 (No.1)  
exposure draft**

EnergyAustralia welcomes the opportunity to comment on the exposure draft of the Australian Securities and Investments Commission (ASIC) amendment regulation 2013 (No.1) (*the draft regulations*).

EnergyAustralia is one of Australia's largest energy companies providing gas and electricity to over 2.7 million household customers. We own and operate an integrated portfolio of energy generation and storage facilities across Australia. We hold an Australian Financial Services Licence (AFSL) issued by ASIC under the Corporations Act.

We do not support making the draft regulations. The draft regulations would authorise ASIC to disclose confidential information to the Energy Security Council (ESC), or any person assisting the ESC. This would substantially weaken the confidentiality provisions under section 127 of the ASIC act.

The ESC is not a statutory body; it has no powers or statutory controls. The charter has minimal confidentiality provisions and the terms of any confidentiality agreements are not known. Further, the charter and any confidentiality agreements entered into by council members or consultants can be amended or waived at any time without external scrutiny.

Market participants provide ASIC with commercially and market sensitive information, often voluntarily. To maintain confidentiality and minimise the risk that this sensitive information is inappropriately used or disclosed it is important that access to the information is rigorously controlled.

Further, the ESC was originally intended as a temporary measure associated with the introduction of the carbon price mechanism. Under the ESC charter the ongoing need for the ESC must be reviewed by no later than 1 July 2014.

No justification has been provided as to the need for ASIC to share confidential information about individual entities with the ESC, and it represents poor regulatory practise to provide a broad

authorisation in regulation, without any conditions, for ASIC to disclose confidential information collected for another purpose to a temporary, non statutory committee such as the ESC.

If the Government determines that it will make regulations to allow ASIC to share confidential information with the ESC, or any similar body, then consistent with section 127 of the ASIC Act the regulation should include suitable controls such as:

- requiring that the Chair of ASIC to be satisfied that reasonable steps will be taken to protect the information from unauthorised use or disclosure; and
- allowing ASIC to impose conditions to be complied with in relation to the information disclosed.

We thank Treasury for this opportunity to comment on the exposure draft. For any questions regarding this submission, please contact me on (03) 86281034.

Yours sincerely

Signed for email

**Ralph Griffiths**  
Wholesale Regulation Manager  
[Ralph.griffiths@energyaustralia.com.au](mailto:Ralph.griffiths@energyaustralia.com.au)