

IN THE DISPUTE RESOLUTION PANEL AT MELBOURNE

BETWEEN

Origin Energy Electricity Limited (Origin)

and

Australian Energy Market Operator Limited (AEMO)

PROCEDURAL DIRECTION NO 1

DISPUTE RESOLUTION PANEL: Peter R D Gray QC, Gregory H Thorpe, and Linda M McMillan

WEMDRA; Shirli Kirschner Resolve Advisors

DATE OF DIRECTION: 17 June 2016

HOW OBTAINED: Directions hearing 16 June 2016

APPEARANCES (external legal advisers):

Mitzi Gilligan- Hive Legal and Ms C Dermody of counsel for Origin

Dr K Hanscombe QC and Mr C Furnell for AEMO

Nicole Gardener- Ashurst for Alinta Group

Carolyn Vigar- Wallmans Lawyers and Tom Clarke of counsel for the SA Wind Farm Coalition (Energy Pacific (Vic) Pty Ltd, Infigen Energy Markets Pty Ltd, Lake Bonney Wind Power Pty Ltd, Pacific Hydro Clements Gap Pty Ltd, Pacific Hydro Retail Pty Ltd, Snowtown Wind Farm Pty Ltd, Snowtown Wind Farm Stage 2 Pty Ltd, Waterloo Wind Farm Pty Ltd and Woodlawn Wind Pty Ltd)

Andrew Peters for CS Energy Limited

Aanthy.Katsanevas for Stanwell Corporation Limited

OTHER MATTERS: A full attendance sheet will be published at <http://www.resolveadvisors.com.au/origin-aemo-fcas-dispute-2016>.

The Dispute Resolution Panel (**DRP**) was informed that in February 2016, Origin raised a dispute under clause 3.15.18 of the National Electricity Rules by issuing a stage 1 DMS referral notice to AEMO under clause 8.2.4 regarding various final statements issued by AEMO to Origin in November and December 2015, and that on 28 April 2016 Origin issued a Stage 2 notice under clause 8.2.5.

The DRP was appointed on 15 June 2016.

The DRP indicated its intention to join Registered Participants identified by AEMO as potentially affected by the dispute and to adopt a proposal that there will be active and non-active categories of parties, with the deadline for notification of each party's choice to be noon on 24 June 2016, that only active parties will be permitted to make submissions or adduce material for the purposes of the substantive hearing of the dispute, and that non-active parties will not face any exposure to a costs order under any order at the end of the proceeding under clause 8.2.8(b) of the National Electricity Rules.

A written notice in the form required by clause 8.2.6B(b) will be given to each of the Registered Participants listed in paragraph 1 of this Procedural Direction by email to the Registered Participant's DMS Contact.

Wherever this Procedural Direction refers to a party providing a document or information, that document or information is to be given to the Adviser by email at shirli@resolveadvisors.com.au

THE DISPUTE RESOLUTION PANEL DIRECTS THAT:

1. Pursuant to clause 8.2.6B(b) of the National Electricity Rules (version 80) (the **Rules**) the following Registered Participants are to become parties to the dispute before the DRP:

AETV Pty Ltd

AGL Hydro Partnership

AGL Loy Yang Marketing Pty Ltd

AGL Macquarie Pty Limited

AGL SA Generation Pty Limited

AGL Sales (Queensland Electricity) Pty Limited

AGL Sales Pty Limited
AGL South Australia Pty Ltd
Adelaide Brighton Cement Ltd
Alcoa Of Australia Limited
Alinta Energy Retail Sales Pty Ltd
Arrow Southern Generation Pty Ltd And Arrow Braemar 2 Pty Ltd
Aurora Energy Pty Ltd
Blue NRG Pty Ltd
Boco Rock Wind Farm Pty Ltd
Braemar Power Project Pty Ltd
COzero Energy Retail Pty Ltd
CS Energy Limited
Canunda Power Pty Ltd
Cathedral Rocks Wind Farm Pty Ltd
Click Energy Pty Ltd
Covau Pty Limited
Delta Electricity
Diamond Energy Pty Ltd
ERM Power Retail Pty Ltd
Ecogen Energy Pty Ltd
Energy Pacific (Vic) Pty Ltd
EnergyAustralia Pty Ltd
EnergyAustralia Yallourn Pty Ltd
Ergon Energy Queensland Pty Ltd
Essential Energy
Flinders Operating Services Pty Ltd
GSP Energy Pty Ltd
Globird Energy Pty Ltd
GoEnergy Pty Ltd
Gunning Wind Energy Developments Pty Ltd
Hazelwood Power
Infigen Energy Markets Pty Limited
Lake Bonney Wind Power Pty Ltd

Lumo Energy (NSW) Pty Ltd
Lumo Energy (QLD) Pty Ltd
Lumo Energy (SA) Pty Ltd
Lumo Energy Australia Pty Ltd
Lumo Generation SA Pty Ltd
M2 Energy Pty Ltd (T/As Commander Power & Gas)
M2 Energy Pty Ltd (T/As Dodo Power & Gas)
Macquarie Bank Ltd
Millmerran Energy Trader Pty Ltd
Momentum Energy Pty Limited
Mortons Lane Windfarm Pty Limited
Mt Mercer Windfarm Pty Ltd
Mt Millar Wind Farm Pty Ltd
New Gullen Range Wind Farm Pty Ltd
Next Business Energy Pty Ltd
OZGen Retail Pty Ltd
Online Power And Gas Pty Ltd
Origin Energy Electricity Limited
Origin Energy Uranquinty Power Pty Ltd
Pacific Hydro Clements Gap Pty Ltd
Pacific Hydro Retail Pty Ltd
Pelican Point Power Limited
People Energy Pty Ltd
Pooled Energy Pty Limited
Powerdirect Pty Ltd
Powershop Australia Pty Limited
Progressive Green Pty Ltd
Pyrenees Wind Energy Development Pty Ltd
QGC Sales Qld Pty Ltd
Qenergy Pty Ltd
RTA Yarwun Pty Ltd
Red Energy Pty Limited
Rio Tinto Aluminium (Bell Bay) Limited

Sanctuary Energy Pty Ltd
Simply Energy
Snowtown Wind Farm Pty Ltd
Snowtown Wind Farm Stage 2 Pty Ltd
SparQ Pty Ltd
Stanwell Corporation Limited
Starfish Hill Wind Farm Pty Ltd
State Electricity Commission (Vic) trading as VicPower
Sun Metals Corporation Pty Ltd
Sun Retail Pty Ltd
Synergen Power Pty Limited
Taralga Wind Farm Nominees No 2 Pty Ltd (ATF Taralga Wind Farm Operating Trust)
WINenergy Pty Ltd
Waterloo Wind Farm Pty Ltd
Woodlawn Wind Pty Ltd

on the following grounds in respect of each of the above Registered Participants:

- a) Origin's stage 2 notice indicates that during the period between approximately 11/10/2015 and 10/11/2015, AEMO determined that certain regulating raise services and regulating lower services must be sourced only from within the South Australian region of the NEM, that the cost of acquiring such service requirements is allocated by AEMO to market participants through a process described in clause 3.15.6A of the Rules, and that Origin considers that the cost of these service requirements was not calculated or allocated to Market Participants in accordance with the NER.
- b) Origin's stage 2 notice indicates that the disputed final statements issued to Origin are those dated 11/11/2015 as revised on 7/12/15, 18/11/2015 as revised on 14/12/2015, 25/11/2015 as revised on 21/12/2015, 2/12/2015 and 9/12/2015.
- c) Origin's stage 2 notice indicates that AEMO allocated the cost of the service requirements to market participants that have generating units in South Australia on the basis of the whole of their NEM generation using a global contribution factor, adjusted so that South Australian Market Participants share in the cost of the local requirement in proportion to those global factors, and that it is Origin's contention that this approach does not meet the requirements or the intention of the Rules and that these costs should have been either allocated to all market participants in the NEM or allocated using local contribution factors (that is, contribution factors determined by reference only to the performance of generating units in South Australia).
- d) Depending on the outcome of the dispute, there is the potential for a determination to be made by the DRP that would require the recalculation by AEMO and the re-issue of final statements corresponding to those disputed by Origin for a large number of Market Participants, identified by AEMO and set out in the list dated 10 June 2016 that is published at <http://www.resolveadvisors.com.au/origin-aemo-fcas-dispute-2016>.

2. By 4:00 PM on Friday 17 June 2016, AEMO is to provide a draft statement of facts in sequentially numbered paragraphs to form the basis of negotiation of a statement of agreed facts.
3. By 4:00 PM on Friday 17 June 2016, any party who by that time intends to be an active participant in the dispute before the DRP is to inform the Adviser of that fact, giving details of the entity or entities that will actively participate.
4. By 4:00 PM on Thursday 23 June 2016, any party who by that time intends to be an active participant in the dispute before the DRP is to provide any comments it then intends to make, including suggested additions, in relation to the draft statement of facts.
5. By 12:00 PM (noon) on Friday 24 June 2016, any party intending to be an active participant must notify the Adviser of that fact, giving details of the entity or entities that will actively participate, and shortly thereafter the Adviser will publish a list of all such parties, together with Origin and AEMO (**Active Parties**).
6. By 4:00 PM on Tuesday 28 June 2016, each Active Party is to sign an agreement as to the terms of retainer of the DRP members and related matters in a form to be furnished in advance by the Adviser, and substantially following the form of the agreement published at <http://www.resolveadvisors.com.au/origin-aemo-fcas-dispute-2016>.
7. By 4:00 PM on Monday 11 July 2016, each Active Party is to provide:
 - a) written submissions on all issues it intends to address in the dispute before the DRP;
 - b) any material in the nature of evidence that it seeks to rely upon in the dispute before the DRP, including any statements of witnesses it intends to call to give evidence at the hearing.
8. By 12:00 PM (noon) on Tuesday 12 July 2016, each Active Party is to communicate to AEMO its final comments on the draft statement of facts, and by 4:00PM on Tuesday 12 July 2016 AEMO is to provide an agreed statement of facts, containing those facts on which all Active Parties agree.

9. At 10:30 AM on Thursday 14 July 2016, there will be a further directions hearing at a venue in Melbourne to be notified to all Active Parties.
10. By 4:00 PM on Monday 18 July 2016, each Active Party is to provide:
 - a) any written submissions by way of reply to the written submissions or material of any other Active Party;
 - b) any material in the nature of evidence that it seeks to rely upon by way of specific response to the material or written submissions of any other Active Party, including any statements of witnesses it intends to call to give evidence at the hearing (provided that evidence is limited to evidence by way of reply).
11. By 4:00 PM on Monday 18 July 2016, the Active Parties through AEMO are to provide a consolidated list, and set, of the documents any of them will rely upon at the hearing, with the proviso that any disputed documents should be identified.
12. As soon as practicable thereafter, and by 4:00 PM on Thursday 21 July 2016 at the latest, the DRP will issue a document requesting any further documents or posing any questions it intends to seek to have addressed by material in the nature of evidence at the hearing.
13. The dispute before the DRP is set down for hearing on an estimate of 2 to 3 days, commencing on Monday 25 July 2016, at a venue in Melbourne to be notified to all Active Parties.

Date: 17 June 2016



Peter R D Gray QC

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under professional standards legislation



Gregory H Thorpe



Linda M McMillan