



FORM A

COMMONWEALTH OF AUSTRALIA

10735

Trade Practices Act 1974 - Sub-section 88(1)

EXCLUSIONARY PROVISIONS:

APPLICATIONS FOR AUTHORISATION

To the Australian Competition and Consumer Commission:

Application is hereby made under sub-section 88(1) of the Trade Practices Act 1974 (the "Act") for an authorisation under that sub-section:

- to make a contract or arrangement, or arrive at an understanding, where a provision of the proposed contract, arrangement or understanding would be, or might be, an exclusionary provision within the meaning of section 45 of the Act; and
- to give effect to a provision of a contract, arrangement or understanding where the provision is, or may be, an exclusionary provision within the meaning of section 45 of the Act.

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- (a) Name of applicant (See Direction 2)** National Electricity Code Administrator Limited (ACN 073 942 775) ("NECA")
 - (b) Short description of business carried on by applicant** Administration of the National Electricity Code (the "Code").
 - (c) Address in Australia for service of documents on the applicant** Mr Stephen Kelly
Managing Director
National Electricity Code Administrator Limited
Level 5
41 Currie Street
ADELAIDE SA 5000
Phone: (08) 8213 6307
Fax: (08) 8213 6300
 - (a) Description of contract, arrangement or understanding and, where already made, its date** The contract, arrangement or understanding with respect of which this application is made are those entered into by participants in the National Electricity Market, pursuant to the Code as amended, in accordance with Appendix A to this Form A (and the

accompanying Forms B and E). These amendments create a mechanism for the treatment of GST under the Code.

For the avoidance of doubt, this application relates only to the GST Code change and not to the Code as a whole.

(b) Brief description of those provisions of the contract, arrangement or understanding that are, or would or might be, exclusionary provisions (See Direction 4) The application of GST to certain fees, charges and amounts payable to or by NEMMCO or NECA under the Code, including spot market transactions, is unlikely to be held to be an exclusionary provision. In addition, please see the Code Change Panel report prepared by NECA in accordance with clause 8.3.5 of the Code (the "Code Change Panel report"), a copy of which forms Appendix C to this Form A (and the accompanying Forms B and E).

(c) Names and addresses of other parties or proposed parties to contract, arrangement or understanding National Electricity Market Management Company Limited (ACN 072 010 327) ("NEMMCO"), every person registered with NEMMCO as a Code Participant as at the date of this application (being persons whose names and addresses are listed in Appendix B to this Form A (and the accompanying Forms B and E) and any other persons who subsequently register with NEMMCO under the Code as a Code Participant.

3. Names and addresses (where known) of parties and other persons on whose behalf application is made This application is made on behalf of NEMMCO, whose address for service is:

Mr Stephen van der Mye
Managing Director
National Electricity Market Management
Company Limited
Level 16
461 Bourke Street
MELBOURNE VIC 3000
Phone: (03) 9638 8777
Fax: (03) 9638 8778

And jointly on behalf of every person registered with NEMMCO as a Code Participant as of the date of this application, being the persons whose names and addresses are listed at Appendix B to this Form A (and the accompanying Forms B and E).

In addition this authorisation application is

made on behalf of and in relation to all persons who become parties to the proposed contract or arrangement after it is made, or become a party to the proposed understanding at a time after it is arrived at, within the meaning of section 88(10) of the Act.

4. (a) Grounds for grant of authorisation

Authorisation is sought on the basis that the GST Code Changes are giving effect to changes considered necessary due to the impact of *A New Tax System (Goods and Services Tax) Act 1999*.

Authorisation is sought on the grounds set out in the Code Change Panel report as outlined in Appendix C to this Form A (and the accompanying Forms B and E).

(b) Facts and contentions relied upon in support of those grounds (See Notice 1)

A New Tax System (Goods and Services Tax) Act 1999 requires that 1/11th of the consideration for a taxable supply must be remitted to the ATO by the supplier.

The GST Code Changes enables NEMMCO or NECA to quote certain prices, fees, charges and amounts payable to or by NEMMCO or NECA, including spot market transactions, in respect of supplies under the Code, excluding GST. The GST Code Changes also enable a supplier to recover the applicable GST from the recipient of the supply.

These facts and contentions are set out in the Code Change Panel report as outlined in Appendix C to this Form A (and the accompanying Forms B and E).

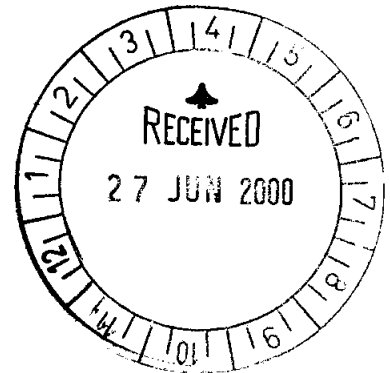
5. This application for authorisation may be expressed to be made also in relation to other contracts, arrangements or understandings or proposed contracts, arrangements or understanding, that are or will be in similar terms to the abovementioned contract, arrangement or understanding.

- (a) **Is this application to be so expressed?** Yes, this application is made with respect to each other similar contract, arrangement or understanding or proposed contract arrangement or understanding for the purposes of section 88(13), (14) and (15) of the Act.
- (b) **If so, the following information is to be furnished:**
- (i) **the names of the parties to each other contract, arrangement or understanding** The applicant, NEMMCO and every person registered with NEMMCO as a Code Participant as at the date of this application (being persons whose names and addresses are listed in Appendix B to this Form A (and the accompanying Forms B and E)) within the meaning of section 88(10) of the Act
- (ii) **the names of the parties to each other proposed contract, arrangement or understanding which names are known at the date of this application (See Direction 5 and Notice 2)** The applicant, NEMMCO and every person registered with NEMMCO as a Code Participant as at the date of this application (being persons whose names and addresses are listed in Appendix B to this Form A (and the accompanying Forms B and E)) and any other persons who subsequently register with NEMMCO under the Code as a Code Participant. The names of those persons who will register with NEMMCO as a Code Participant are not known at this time.
6. (a) **Does this application deal with a matter relating to a joint venture (See section 4J of the Trade Practices Act 1974)?** No
- (b) **If so, are any other applications being made simultaneously with this application in relation to that joint venture?** Not applicable
- (c) **If so, by whom or on whose behalf are those other application being made?** Not applicable

7. **Name and address of person authorised by the applicant to provide additional information in relation to this application.** Mr Stephen Kelly
Managing Director
National Electricity Code Administrator
Limited
Level 5
41 Currie Street
ADELAIDE SA 5000
Phone: (08) 8213 6307
Fax: (08) 8213 6300

Date: 23 June 2000

Signed on behalf of NECA



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Stephen Kelly
(Signature) Mr Stephen Kelly

Managing Director
National Electricity Code Administrator Limited

*** Note:** References in this application to the Act are references to the *Trade Practices Act 1974* and also include the Competition Codes of New South Wales, Victoria and the Australian Capital Territory as defined in the Competition Reform legislation in force in each jurisdiction.