



## FORM E

## COMMONWEALTH OF AUSTRALIA

*Trade Practices Act 1974 - Sub-section 88( 8)*

## EXCLUSIVE DEALING:

## 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* for an authorisation under that sub-section to engage in conduct that constitutes or may constitute the practice of exclusive dealing.

- 
1. (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.
- (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
2. (a) **Description of the goods or services in relation to the supply or acquisition of which this application relates** The goods or services in relation to the supply or acquisition of which this application relates is electricity sold into the National Electricity market, as affected by the amendments set out in the Code Change Panel reports submitted with this Form E (and the accompanying Forms A and B).

For the avoidance of doubt, this application relates only to the customer registration and full retail contestability Code changes and not to the Code as a whole.

(b) **Description of the conduct**

that would or may constitute the practice of exclusive dealing (*See Direction 4*)

3. (a) Class or classes or persons to which the conduct relates

The classes of persons are:

- (i) the applicant;
- (ii) the National Electricity Market Management Company Limited (ACN 072 010 327) ("**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;

- (iii) every person registered with NEMMCO as a Code Participant as at the date of this application, being the persons whose names and addresses are listed in Appendix A to this Form E (and the accompanying Forms A and B); and
- (iv) any other subsequent parties to the Code, being all parties who register with NEMMCO under the Code as a Code Participant.

This application is made on behalf of NEMMCO and each person identified in Appendix A to this Form E (and the accompanying Forms A and B). In addition:

- (a) the authorisation being applied for by this application is, in accordance with section 88(8AA) of the Act, to be expressed so as to apply to the applicant and every person who is registered with NEMMCO as a Code Participant as at the date of this application (being the persons

identified in Appendix A to this Form E (and the accompanying Forms A and B)), and in relation to each other person who becomes a party to the Code by registering with NEMMCO as a Code Participant; and

- (b) this application is expressed to be made also in relation to other proposed contracts , industry codes of practice, arrangements or understandings that will be in similar terms to the Code within the meaning of sections 88(13), 88(14) and 88(15) of the Act, being each of the proposed contracts, industry codes of practice, arrangements or understandings to be made between a person who registers with NEMMCO under the Code as a Code Participant, the applicant, and each existing participant under the Code at that time.

The names of the parties to each other proposed contract, industry code of practice, arrangement or understanding which are known at the date of this application are the applicant, NEMMCO and each person who is registered with NEMMCO as a Code Participant as at the date of this application (being the persons identified in Appendix A to this Form E (and the accompanying Forms A and B)). Other than to state that the other parties to each proposed contract, industry code of practice, arrangement or understanding for the purposes of section 88(13), (14) and (15) of the Act will be persons who register with NEMMCO under the Code as a Code Participant and each existing Participant under the Code at that time, the names of those other parties are not known as at the date of this application.

**(b) Number of those persons**

**(i) At present time**

NECA and NEMMCO	2
Generators	30

Customers	38
Network Service Providers	21
Special Participants	18

(ii) **Estimated within the next year**

Unknown

- (c) **Where number of persons stated in item 3(b)(i) is less than 50, their names and addresses** Not applicable
4. (a) **Grounds for grant of authorisation** Authorisation is sought on the grounds set out in the Code Change Panel reports prepared by NECA, copies of which are submitted with this Form E (and the accompanying Forms A and B) (the "**NECA Reports**").
- (b) **Facts and contentions relied upon in support of those grounds (See Notice)** The facts and contentions relied upon in respect of the Code changes are set out in the NECA reports.
5. (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 applications being made?** Not applicable

6. 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: ~ August 2000

Signed on behalf of NECA

..... 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.