



FILE No:

DOC:

MARS/PRISM:

13/09/02

Mr Michael Rawstron  
General Manager  
Regulatory Affairs – Electricity  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

Dear Mr Rawstron

**RE: DRAFT DETERMINATION – BIDDING AND REBIDDING CODE CHANGES**

Yamasa Australia is a medium sized frozen food business situated in the western suburbs of Melbourne. 80% of our electricity is used to run our production and storage refrigeration systems. Our electricity consumption is significant for a medium sized operation with a maximum demand of 0.8MW.

We have been operating in Australia since 1992 and have been a market participant since 1996. Since then we have been very satisfied with the operation of the wholesale spot market.

We are exposed to pool prices on a daily basis and have experienced very high short - term peaks and very low long - term troughs. Initially the short term price spikes in summer had us glued to our monitors watching the price climb higher and higher over a period of a few hours on a hot afternoon.

At first we were a little nervous, but soon became used to these spikes, especially as the low year round average spot price more than compensated for the occasional price spike. As result we have enjoyed much lower average electricity costs, particularly in the first few years of participation.

In fact our electricity bills were cut by over 40% in some of the early years. This was due to oversupply of generating capacity and competition forcing pool prices to very low levels. More recently, average electricity prices have returned to levels of a few years ago. Perhaps this is due to an increase in demand causing a tightening supply and/or the market participants now bidding more sustainable prices. We recognise that higher prices are required to encourage new entrants. However we are still paying less than we did in 1996.

Due to our participation in the market we often receive correspondence from many organisations.

As an operator of a small business we are constantly amazed by the number of documents, reports, code changes and analysis that are generated by regulators ie NEMMCO, ACCC, NECA and their supporting consultants, economists and the like. There is a real possibility of stifling the efficient running of power systems with this level of regulation and intervention. I am only able to skim through some of them occasionally, they are always very thick but don't actually seem to say much.

They often appear to be filled with vague economic theory or examples of regulators seemingly jumping at shadows or problems that *might or may* exist. It's a bit like McCarthyism.

We have the impression that the electricity market is over regulated and the rules seem to be overly complex, requiring dozens of committees to formulate, administer and report on sometimes non existent or trivial problems.

Yes ... rules are necessary, but can't we rely on the only people who really know what is happening in the industry to run the system properly for us without undue interference?

I refer to the heart and soul of the electricity industry, i.e. the generator and transmission system operators who actually *produce electricity* and bring it to our businesses and households in a safe and efficient manner on a round the clock basis. We ask that politicians and regulators take due notice of these industry participants. We have always had faith in them ... that is why we joined the market.

As far as we can see regulators and bureaucrats are often offering opinions based on good intentions and textbook economic theory, but are lacking any real working knowledge of how a power station should operate in a competitive market.

We have the belief that the system and market is working well within the existing rules and that Electricity Market participants should be trusted to act in a businesslike and responsible way.

Do the big players really need to be told how to run their businesses by regulators? Have they done something wrong in the past that warrants such an element of mistrust?

The people we have dealt with appear to be well trained, dedicated and well aware of their broader responsibilities to the community. Cut out all the unnecessary administration that seems to feed on itself and let the industry get on with it. That is our view as a participant, consumer and average member of the business community.

With the above philosophy in mind we would like to offer our comments on the ACCC document 'Changes to Bidding & Rebidding rules' 3 July 2002.

1. Are 75 pages necessary to get the message across? The ACCC should provide a concise and relevant report without all the guesswork and superfluous economic analysis and waffle.
2. The ACCC foreword addresses many concerns. I will comment briefly:

***Increasing average prices.***

What was NECA's or the ACCC's view when prices halved in 1996?

I didn't hear any complaints then. How do current retail prices compare to 1992, 1996 & 2000?

***ACCC is troubled by the generator's ability to affect spot prices***

I would think this is what we should expect, after all it is the generator that decides how much they can sell their product for. Who else should affect prices? Our experience is that competition has given us lower prices.

***Lack of competitive generator response***

This is meaningless and not really supported in the document.

***Market power is present in the NEM***

I could have saved you a lot of time on that one.

***Market power is fundamentally linked to market structure.***

I could have saved you a lot of time on that one also.

***Inefficient market outcomes***

What do NECA and the ACCC mean by the term ***inefficient market outcomes?***

What is the benchmark?

**Para 1.1 The applications**

***NECA code changes are purported to address inefficiencies that contribute to short term spikes***

These inefficiencies are not identified or quantified.

***Bids to be made in good faith***

I think this is a little insulting and generators deserve more credit until they demonstrate otherwise. It's a meaningless term, if someone is not playing the game properly expose them, but don't tar everyone with the same brush without proof.

***Strategies that prejudice the operation of the market***

Is this really a problem? If a generator withholds capacity there is always the risk that capacity will not be used...therefore they lose income...it works both ways doesn't it?

Besides what is wrong with companies wanting to maximise profit within reasonable parameters? Isn't that why they bought the power stations in the first place?

#### **Para 2.4 Current Rebidding Rules**

***NECA define a high price as one that is at least three times the average weekly price.***

This seems to be a waste of time and misleading.

What if the average price is very low (as it often is). Is 3 times a low price still a high price?

#### **Para 3.1 Proposed Code Changes**

***NECA state that the inflationary effect of price spikes is detrimental to market operation.***

We have never experienced any problems in the market due to spikes ...has anyone else? What does this mean? Price spikes are compensated for by long periods of low prices, this appears to have been ignored.

***NECA argue that price spikes are sudden & short in duration hence competitive responses are rare***

What is a competitive response and the effect of not having one?

We are able to respond to price spikes in a competitive manner by demand management.

#### **Para 4.1 Good Faith ...**

The less said about this the better, refer to my comments above.

##### **Reverse onus proof ...**

The less said about this the better, refer to my comments above.

#### **Para 5.1 Efficient Competitive or Reliable Operation of the Market**

This is a meaningless term without proper benchmarking.

##### **Conduct NECA may investigate:**

*Generator withholding capacity,*

*Sleeper bids,*

*Exploiting network constraints,*

*Manipulating dynamic capacity.*

We have not seen any evidence that consumers have suffered any inconvenience, disadvantage or loss from these alleged practices.

Aren't they just legitimate business tactics? We are confident that the market will continue to provide competitive electricity prices

#### **Para 7.4 Use of Contracts**

Discussion on this is minimal I would have thought that contracts have the most

effect on the overall average spot price.

Contracting can protect customers who don't want to be exposed to spikes. Why the shallow treatment of contracts?

### **Para 7.5 & 8.6 Conclusions**

#### ***The ACCC concludes a presence of significant market power***

If this is the case, and with electricity so cheap and reliable, those with the power must be exercising it responsibly. What is the point here?

#### ***ACCC believes that recent investment in southern states and Queensland has been encouraged by spot market prices.***

I assume the ACCC think this is a good outcome, their view is not clear.

We believe prices should be at a level to attract investment.

### ***Summary***

We are happy with the quality, reliability and wholesale price of electricity in Victoria. Price spikes have not been of concern to us and we regard them as just part of the normal mechanisms of the energy market responding to rapidly fluctuating demand.

Yamasa believes that regulators and bureaucrats should take a more hands off approach to the operation of power stations and transmission systems.

The ACCC should have sufficient powers under the Trade Practices Act to address the issue of abuse of market power. Make them more accountable by all means through the Trade Practices Act and even change this legislation if necessary to penalise those who abuse their positions of influence within the market.

There is a danger of stifling competition and innovation with too much government intervention. What was the point of deregulating the industry in the name of improving efficiency if operators are not allowed some reasonable autonomy? Don't try and make participants run their businesses having to constantly justify every trivial decision or with an army of electricity regulators looking over their shoulder every 5 minutes.

Surely we can all find more important things to do.

Yours faithfully



John Shaw  
Yamasa Australia Pty Ltd

CC Stephen Kelly – NECA  
Candy Broad – Minister for Energy & Resources - Victoria