



Hydro Tasmania
the renewable energy business

27 September 2002

FILE No:
DOC:
MARS/PRISM:

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Dear Michael

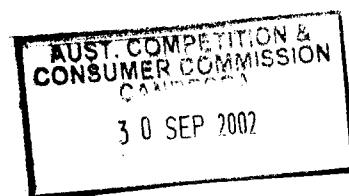
Response to Draft Determination – Bidding and Rebidding Code Changes

Please find attached Hydro Tasmania's submission in relation to the ACCC's recent draft determination.

If you require further information please contact the undersigned who can be reached at 03-62305775.

Yours sincerely,

David Bowker
Manager Market Development



Submission by Hydro Tasmania to ACCC on the Draft Determination on Proposed Changes to Bidding and Rebidding Rules in the National Electricity Code

1. Overview

Introduction

This submission sets out Hydro Tasmania's position with respect to the ACCC's draft determination of 3 July 2002 on the changes to the National Electricity Code ("Code") proposed by NECA and submitted to the ACCC for authorisation (applications A90797, A90798, A90799) under the Trade Practices Act ("TPA"). It expands on Hydro Tasmania's presentation to the pre-determination conference held on 13 August 2002.

Since the pre-determination conference, NECA has released a paper titled "Bidding and rebidding – Some ideas for a way forward" which appears to revise the form of the original proposed rule changes and to introduce new proposed rule changes to take into account suggestions made by the ACCC. The status of this paper and its impact on the NECA applications before the ACCC remain unclear and has not been clarified by NECA or the ACCC.

The ACCC has suggested to market participants that they base their submissions on the original NECA applications. Accordingly, Hydro Tasmania has finalised its submission on that basis, but expresses some reservations about the value of doing so in circumstances where the draft rule changes attached to NECA's paper indicate that NECA has moved on from the form of the draft rule changes which were the subject of its original applications.

Summary of Hydro Tasmania's position

On the proposed rule changes: Hydro Tasmania supports the introduction of a good faith rule but would like to see NECA and the ACCC give greater clarity on how this rule would be applied in practice.

Hydro Tasmania does not support the proposal for rules relating to conduct prejudicial to the market on the grounds of unworkability and the lack of proper cost/benefit analysis. It is not clear whether the approach NECA is taking would effectively create a duty on market participants to make an assessment as to the range of potential market outcomes which may be perceived as the effect of each bid they make.

On the draft determination: The test applied in the draft determination is whether or not the proposed rule changes "adequately address the issue of market power". This is not the test which the TPA requires – under the TPA the test the ACCC must apply is whether or not the public benefit from the proposed

rule changes outweighs any substantial lessening of competition from the proposed new rules.

It is not clear why the introduction of a good faith rule requires authorisation under the TPA. This is part of a general confusion about the role of authorisations in electricity. It would be helpful for the industry if the ACCC published some guidelines on the use of its authorisation power in relation to the Code and electricity generally.

On the rebidding debate:

The real issue behind the rebidding debate is price volatility in NEM – a policy issue. Who benefits from it and who loses out? Is it the result of competition and what effect would the removal of price volatility have on consumers?

There has been no rigorous analysis of the causes of price volatility in NEM and no proper cost/benefit analysis of the impact of policy changes which remove or reduce volatility.

Rebidding is essential for renewable generators and there is no evidence to suggest that it should be regarded as inherently suspicious or anti-competitive.

On TPA section 46: If market participants are engaging in conduct which is believed to contravene section 46 of the TPA, the ACCC should take appropriate enforcement action and allow the courts to determine the position.

There seems to be two diverging views of “market power” – the TPA view as articulated by the courts and as applied to all industries other than electricity and a nebulous industry specific concept for electricity which is not subject to the discipline of the TPA or the courts. Hydro Tasmania believes that ultimately this will be to the detriment of the proper application of one competition law (the TPA) across the board by one national competition regulator (the ACCC).

2. The proposed rule changes

As a general comment, Hydro Tasmania is concerned that the proposed rule change package is based on the underlying premise that these rules are designed to fix a problem which has not been properly shown to exist.

Good Faith

Hydro Tasmania supports the introduction of a good faith rule but believes that the issue of good faith (or lack of good faith) is a sideshow to the real issue of NEM pricing volatility and probably irrelevant to the question of whether or not market power is being used.

Nonetheless formalizing a good faith rule can be important in bringing back confidence in the industry as this reflects sound governance mechanisms¹ and ethical standards, and it should in any event be part of any market participant's TPA compliance regime. Hydro Tasmania would support the principle of good faith being introduced into the Generator Code of Good Practice.

However, there is a great deal of uncertainty as to what form a good faith rule would take and how it would be applied. There also seems to be confusion as to whether or not a generator who has complied with an authorised good faith rule in relation to its bidding and rebidding conduct would then have a full defence to any assertion that its bidding or rebidding conduct may constitute an exercise of market power in breach of the TPA

Hydro Tasmania would like to see any good faith rule accompanied by some form of clarification, explanatory memorandum or guidelines, issued by both NECA and the ACCC, to give greater clarity on how this rule would be applied in practice and its relationship to the TPA prohibition on misuse of market power.

Reversal of onus of proof

Hydro Tasmania does not support the proposal for a reversal of onus of proof and agrees with the concerns raised by the ACCC in this regard.

Conduct prejudicial to the market

Hydro Tasmania does not support the proposal for rules relating to conduct prejudicial to the market on the grounds of unworkability and the lack of proper cost/benefit analysis.

It is not clear whether the approach NECA is taking would effectively create a duty on market participants to make an assessment as to the range of potential market outcomes which may be perceived as the effect of each bid they make. If so, what defences would be available? What level of due diligence would be required? Would there be some form of "business judgment" defence and if so how would this differ to the good faith obligation? These issues have not been considered in sufficient depth.

It is also not clear how this would operate alongside the contractual obligations to which a market participant may be bound or the operation of company law principles. Would it override a contract under which a generator had agreed to bid in its capacity in accordance with a third party such as an end user or retailer (so-called virtual generator arrangements)? Would it override directions given to an Australian market participant from its overseas shareholder?

Power system security

Hydro Tasmania has no objection to the proposed rule changes relating to power system security.

¹ Unlike many generators Hydro Tasmania is required under the Tasmanian Government Business Enterprises Act to act in a "Sustainable and Commercial manner".

3. The ACCC's suggestions

The ACCC has made a number of suggestions in the draft determination. The precise legal status of these suggestions is not clear. It would be useful to market participants for the ACCC to clarify and set out guidelines for the use of suggestions in the formal authorisation process for electricity matters – this is something which should be addressed in the guidelines suggested in section 5 of this submission below.

It would appear that the suggestions are based on the premise of a “market power” problem but there is no traditional market power analysis (market definition, barriers to entry). Further comments on the “market power” issue are set out in section 6 of this submission below.

Economic withholding

Hydro Tasmania does not agree with the suggestion. It is unworkable from a commercial perspective and has not been subject to any rigorous assessment as to the need for and consequences of such a step. Any such proposal should be subjected to proper cost / benefit analysis – this is not the same as the authorisation test as discussed in sections 4 and 5 of this submission below.

Ramp rates

Hydro Tasmania does not agree with the suggestion. It is unworkable from a commercial perspective and has not been subject to any rigorous assessment as to the need for and consequences of such a step. Any such proposal should be subjected to proper cost / benefit analysis – this is not the same as the authorisation test as discussed in sections 4 and 5 of this submission below.

For hydro generators in particular ramp rates are a sensitive issue. These have to be varied dynamically to account for riverine flows, environmental conditions, and license constraints. These will be impeded by the suggested approach and may force a generator such as Hydro Tasmania to be in conflict with either the competition regulator or the environmental regulator and unable to satisfy both regulators simultaneously.

Disclosure of contract information

The suggestion refers only to generators. In doing so it does not address issues of fairness and misunderstands the complexity of the commercial arrangements which exist and are continuing to develop within the industry.

There is no detailed analysis of how confidentiality issues would be addressed and what use could be made of the information.

Delayed release of information

At present the release of market information in Australia is regarded by other Jurisdictions as a model to be followed in terms of timelines. This information, together with the information contained in PASA, is more than adequate for market participants to factor into the development of their business strategies. Changes in the information disclosure regime do not appear justified nor have they been subjected to any adequate cost benefit analysis.

Market Review Forum

Hydro Tasmania endorses the ACCC's initiative with respect to the development of a Market Forum. Further suggestions as to what the Market forum should cover are set out in section 9 of this submission below.

4. The rule change process generally

Hydro Tasmania has a number of concerns about the rule change process which resulted in the draft determination. These concerns have been amplified with the release by NECA of its "Some ideas for a way forward" paper and the uncertainty which surrounds the status of the revised form of the proposed rule change package contained in that paper.

It is Hydro Tasmania's firm view that all proposed rule changes should be subject to a stringent cost benefit test before they are submitted to the ACCC for authorisation (assuming authorisation is required). Every rule change will have winners and losers – the questions to be asked are who wins and who loses and is there a net win or net loss. This is not presently occurring and has not occurred in this instance. By default cost / benefit issues end up being debated in the authorisation process but this confuses the nature of the statutory authorisation test – it is not the same as a cost / benefit analysis.

Hydro Tasmania believes that this is a Code issue which needs to be taken up outside of any particular authorisation as a review of the general Code change process.

The real issue behind the rebidding debate is price volatility in NEM – a NEM policy issue. Who benefits from it and who loses out? Is it the result of competition and what effect would the removal of price volatility have on consumers? There has been no rigorous analysis of the causes of price volatility in NEM and no proper cost/benefit analysis of the impact of policy changes which remove or reduce volatility.

Rebidding is essential for renewable generators and any cost / benefit analysis should take into account not only the impact of how changing the rules for rebidding will force renewable generators to behave (and any consequent adverse outcome for consumers) but also the wider impact of such changes on the development of the renewable industry.

5. The authorisation test

The test applied in the draft determination is whether or not the proposed rule changes “adequately address the issue of market power” (see page 55 of the draft determination). This is not the test which the TPA requires.

Under the TPA the first step is to ask whether proposed new rules would breach Part IV – leaving aside “per se” prohibitions, this requires an identification of any substantial lessening of competition. Only if this is likely to exist, is there a need for authorisation, in which case the test the ACCC must apply is whether or not the public benefit from the proposed rule changes outweighs the substantial lessening of competition from the proposed new rules.

It is dangerous to use the authorisation process to deal with industry cost / benefit debate or policy issues. Because the TPA allows a broad view of the types of public benefit which may be considered in this weighing up but only one type of detriment, namely any substantial lessening of competition, it is likely that the authorisation test will pick up much of what would be considered on the “benefit” side but will exclude most of what would be considered on the “cost” side of a proper cost / benefit analysis.

It is not clear why the introduction of a good faith rule requires authorisation under the TPA. This is part of a general confusion about the role of authorisations in electricity and the nature of the test applied by the ACCC.

It would be helpful for the industry if the ACCC published some guidelines on the use of its authorisation power in relation to the Code and electricity generally and if the ACCC identified in these guidelines where and why its industry practice for electricity differs from the approach it takes with respect to other industries or its interpretation of the TPA and its statutory powers and its enforcement of the TPA in general.

The issuing of such guidelines would address some of the general concerns with respect to ACCC governance and processes and with respect to the authorisation process which have been expressed in submissions to the current TPA inquiry chaired by Sir Daryl Dawson.

6. “Market power” concerns

Code changes are not an appropriate mechanism for the ACCC to deal with market power complaints. If market participants are engaging in conduct which is believed to contravene section 46 of the TPA, the ACCC should take appropriate enforcement action and allow the courts to determine the position.

It is the role of the courts to provide clarification as to the line between legitimate (even ruthless) competitive conduct which the Australian competition laws are designed to foster and anti-competitive conduct which Australian competition laws are designed to prohibit. The principles and tools which Australian courts have developed to draw this line are applicable across all industries and need to be brought into any credible analysis of a “market power” problem in the NEM.

There seems to be two diverging views of "market power" – the TPA view as articulated by the courts and as applied to all industries other than electricity and a nebulous industry specific concept for electricity which is not subject to the discipline of the TPA or the courts. Hydro Tasmania believes that ultimately this will be to the detriment of the proper application of one competition law (the TPA) across the board by one national competition regulator (the ACCC).

Again, this is an area where the present confusion as to the law and how it is applied by the ACCC could be cleared up through appropriate ACCC guidelines. This would greatly assist market participants in implementing appropriate TPA compliance processes.

7. Understanding NEM pricing

The need to consider price volatility in an Australian context

Although electricity markets operate in a number of territories around the world the design of the National Electricity Market (NEM) in Australia is substantially different to other markets. This difference is in two fundamental considerations:

- Firstly, whilst the antecedents to Australia's market can be found in the United Kingdom reforms of the early 1990's the Market Design, structure, and operations in Australia are fundamentally different to all overseas territories; and
- Secondly the legal framework provided by the Trade Practices Act and the structure and operation of the ACCC in Australia provides a substantially different environment from all overseas territories.

Neither of these substantive variations has been factored into the assessment of the current policy issues and the proposed Code changes. Accordingly it is difficult to draw parallels from the problems experienced in those markets as well as the regulatory approaches adopted in those markets to the Australian situation. Accordingly observers who identify volatility, price spikes etc in the Australian context and conclude that the causes of these events in Australia have a common theme with other markets are reaching those conclusions without any valid causal analysis.

Causes of price volatility

In fact there may be a series of complex interrelationships of behaviour and structure that can explain the volatility and the role it plays in the market in Australia but these have not been adequately researched. Hydro Tasmania believes that to date there has been insufficient analysis of the problem to adequately justify variations to the market design at present. Analysis that has been undertaken has lacked rigor and failed to adequately identify the costs and benefits of the proposed changes. Analysis should, in Hydro Tasmania's opinion, be directed in the first instance to identify the causes of variability, the role played by mechanisms such as rebidding, the beneficiaries of current market operations, as well as the costs and losers in the market's operations. This paucity of rigorous study in the electricity industry is in strong contrast to the Commissions own work in the Petrol Industry.

As a consequence the lack of an adequate assessment of the problem and the conclusions being drawn about the operation of the market and the attendant proposals for variation to the market design have the potential for significant error and significant unintended policy consequences which may result in a significant loss in social welfare in the long term. Included in that is the recent announcements by NECA on the development of "Capacity Mechanisms" which appears to be a reactive rather than a proactive and considered response to the policy issue.

Development of an efficient market

NEM pricing is a policy issue and as such is inadequately addressed by rule changes. If alternative pricing models are considered necessary then these should be proposed and debated in a Market Forum proposed by the ACCC and not initiated via the Code Change process.

Volatility can be removed by the imposition of regulated tariffs. This will in turn lead to regulatory gaming and a return to the inefficiencies and an ESI similar to that of the 1980's with a consequent loss of the hard won gains in National Productivity over the past decade. Alternatively it will be imposed via market distortions such as price caps, capacity arrangements in one form or another, or even rebidding prohibitions etc.

The evidence from other commodity markets is that such distortions lead inevitably to higher average prices for all consumers. The ACCC's 2001 Report on Fuel Price Variability, concluded that -

"However, it is likely that consumers in aggregate benefit overall from price cycles. There are two reasons for this.

First, consumer welfare analysis suggests that, in general, consumers in aggregate are better off with variable prices than they are with a fixed (simple average) price. When the price is fixed, consumers have to pay that price and that price alone. However, if the price is variable around this fixed price, consumers can buy at the lower price - and they will tend to buy more at the lower price and restrict their purchases when the price is high. The opportunity to do this will tend to make consumers better off.

*Second, the data referred to earlier about sales volumes shows that on average across the price cycle, around 60 per cent of the total volume of petrol is sold at prices below the average price of the price cycle, and around 40 per cent is sold above."*²

The question needs to be asked why doesn't the same apply for electricity?

The assumption, to date, has been that electricity unlike petrol cannot be stored. But, as Professor Frank Wolak demonstrated at the ACCC Regulation & Competition Conference in July 2002, just because electricity cannot be stored does not mean that electricity users, both large and small, cannot adjust their usage in response to price signals.³

² "Reducing Fuel Price Variability" ACCC December 2001 (Released publicly 14 May 2002) Page 9.

³ The absence of large customers from direct market participation has contributed to the relatively slow adoption of distributed generation and storage technologies. Adoption of such technologies should flow from markets exhibiting price volatility.

The original design of the market reform process envisaged a progressive reform flowing through several steps:

1. Disaggregating of the vertically integrated monopolies; to
2. The creation of Wholesale Electricity Markets and
3. The creation of a Competitive Electricity Market involving not only Retailers as market customers but also the direct involvement in the market of large customers as many large users have the ability to modulate their load requirements and make economic choices about electricity consumption patterns.⁴

To date we have only completed the first two of these steps. Even where there has been some progress towards full retail contestability progress to a Competitive Electricity Market has been slow and actively frustrated by the intervention of some Jurisdictions. Accordingly there is little evidence of:

- Significant end user market involvement particularly from large users. Active participation of this group in the market could have a significant effect on price volatility.
- Demand side response has been muted so that its mitigating effects of price volatility is not a normal part of the market operation.

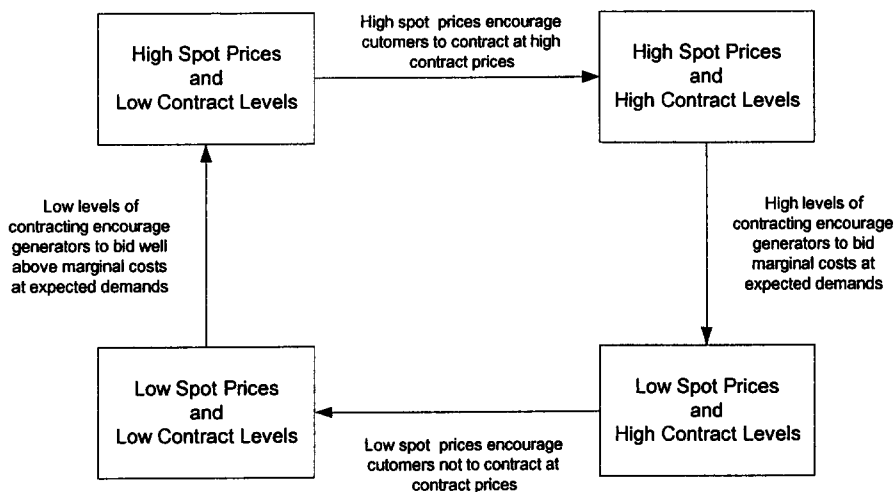
Unless these structural issues are addressed the NEM will continue to be "half an electricity market".

Accordingly price volatility is not a function of market failure but a reflection of the market in operation. What it exposes is the deficiencies in having only developed the supply side of the market to the exclusion of the demand side. If this is the case then where is the consumer benefit in simply regulating price variability through rule changes on bidding and rebidding?

Is the Market responding to Price signals for New Investment in an environment of light handed regulation?

Like most commodity markets the NEM can have cycles of prices. The early stages of the NEM (including NEM1) had very low average prices. This occurred when the new restructured generators in NSW and Victoria improved their operational efficiency levels. This resulted in a substantial increase in the supply side without the addition of any new plant. Currently the average prices are substantially higher as demand has grown to soak up the increase supply. Price volatility and the cyclical nature of prices are essential to the effective functioning of an energy only market because the price risks encourage longer term contracting. The level of contracting in the market will influence generator behaviour that in turn will influence spot prices. This cycle is illustrated in the following figure included as part of our 2001 submission to NECA on Rebidding:

⁴ Even residential consumers can (and given the opportunity will) respond just as they do to petrol price variability. The ACCC has recognized this in its comments on the introduction of FRC and interval metering.



Simplified View of the Cyclical Nature of Spot Prices

The current concerns about rebidding and high prices should be seen in the context of this cycle. Customers who had contracted for longer periods in the early days of the NEM may not have done as well as customers who had contracted for shorter periods or maintained spot exposure in the past but will now be reaping some of the benefits of longer term contracting. A greater degree of longer term contracting particularly by end users would be desirable in the NEM and insulate customers to some degree from the cyclical nature of the market.

Accordingly it is vital to have a proper understanding of this cycle to be able to adequately assess the costs/benefits of Volatility in the NEM before intervening in the market.

Has New Investment occurred in response to market demands in the NEM?

Unlike the non-NEM jurisdictions there has been a significant market based response to the supply requirements of individual regions in the NEM. In Tasmania until the decision to join NEM was taken there was no investment proposed in the energy sector. NEM has provided investors with a recognised market and a way of risk management to underpin the financing of their projects. This was an essential ingredient to attract international investment in the following projects:

- Basslink (\$500m) being constructed by National Grid that provided a physical link to a larger market from an island that was supply constrained.
- A gas pipeline underpinned by the associated Gas Fired Generation (\$500m) by DEI
- The establishment in Tasmania by Vestas of Australia's first wind turbine manufacturing facility to meet the Australian and Asian Pacific markets.

Overall for NEM the following table sets out the investment scorecard:

State	Need	Delivered/Committed
Victoria	More peaking capacity. For more than 20 years Victoria has faced a peak capacity problem resulting in the inappropriate use of brown coal base load plant as peaking generators and contributing to price volatility.	Between 1998 and 2005 over 2000MW of peaking capacity will enter the market 2002 Snowy Interconnector upgraded by 400MW 2002 Valley Power 300MW 2002 AGL Sommerton 150MW 2000/2002 Bairnsdale 96MW 2004 SNOVic 480MW 2005 Basslink 600MW
South Australia	Required both base and peaking capacity. By 1998 South Australia was supply constrained and faced severe peaking capacity shortages.	Between 1999 and 2004 over 1600MW of additional capacity will enter the market 2003 Pelican Point 730MW 2002 Quarantine 200MW 2002 Murraylink 200MW 2004 SNI 500MW
Queensland	More base load plant following plant outages and supply constraints in 1997.	Between 1998 and 2003 delivered 3000MW of additional supply. 2001 Callide C 840MW 2000 Directlink on line 180MW 2001 QNI on line 1000MW 2002 Swanbank E on line 385MW 2002 Millmerran on line 852MW
NSW	Excess of supply with large black coal fired base load generation	Mothballed expensive gas fired plant
Tasmania	Required additional base load generation and new fuel sources as supply and fuel constrained	Delivered new generation and gas, wind, and access to Victorian brown coal generation 2002 Bell Bay converted to gas 214 MW 2002 wind projects established 10.5MW on line 2005 Basslink 600MW export and 300MW import. 2006 Bell Bay CCGT 350MW

8. Rebidding for renewables

One of the tenets underpinning the design of the NEM has been to ensure that it is "technology neutral". Accordingly the development of the Mandated Renewable Energy Target scheme has taken place outside the NEM as it is designed to foster the development of new renewable generation and to improve the efficiency of pre-existing plant.

By their nature both wind generation and cascade and run of river hydro schemes require access to a rebidding in order to ensure their most efficient dispatch. Renewable generators of this type cannot readily adjust their output, therefore, they will have a requirement to vary their bids frequently. This could give the impression of withholding capacity or attempting to manipulate the market. Any restriction on rebidding would substantially hinder the development of large wind farms or create the incentive to have multiple small farms that are outside of NEMMCO's dispatch process. The latter outcome could materially affect system security.

One of the key reasons for introducing re-bidding into the Code originally was to facilitate efficient fuel management particularly of hydroelectric plant. Hydroelectric generation is characterised by a finite energy resource, water, and uncertain inflows and market opportunities. In managing this resource, hydroelectric generators consider the opportunity cost of using the water now as opposed to later. This opportunity cost is dependent on the state of any storage and the forecasts and uncertainties regarding market opportunities and inflows.

If a hydro-generator is faced with unexpectedly large inflows and little storage the opportunity value of the water it has in storage will go down to nearly zero. Consequently, in a competitive market the generator may re-offer its generation at a lower price in response to these changed circumstances. It would have to re-bid to effectively lower the price it was offering to the market to increase its generation to use the higher than expected inflows.

Similarly, if the same generator discovered that the market demand for its limited output had increased due to the failure of another generator, the opportunity cost of its water may substantially increase. In response to these changed circumstances the same hydro-generator operating in a competitive market may raise its prices by increasing the amount of generation offered in higher priced bands. This behavior could be falsely construed as abusive if one assumes that water has no value but in reality it is behavior that is aimed at optimizing the use of a scarce water resource. It is behavior to be expected in a competitive market. It also replicates the outcomes that would have occurred in a centrally operated system. This behavior, reflected in improved integration of thermal and hydro generation resources, was identified by the ACCC in the 1997 Authorisation of the Code as a major public benefit of the NEM.

Thus in a competitive market, re-bidding which sometimes raises and sometimes lowers prices is to be expected in response to external factors or events outside the generators own plant. It

has been acknowledged that this conduct is something which occurs in good faith as part of normal competitive behaviour.

In summary, re-bidding is an essential part of managing any energy constrained resource whether it be a generator or load, and is a necessary aspect of an efficiently functioning market.

9. The Market Review Forum

Hydro Tasmania endorses the ACCC's initiative with respect to the development of a Market Forum. Hydro Tasmania considers that as a first step this Market Forum needs to:

- i. Identify in the Australian context the causes of volatility;
- ii. Identify whether volatility in the NEM gives rise to any identifiable problems;
- iii. Identify the costs and benefits of the existing arrangements with respect to bidding and rebidding;
- iv. Assess whether a flattening of prices through changes to bidding would lead to higher average prices and deliver better or worse outcomes than at present;
- v. Assess what will be the impact on investment if the market's design is varied to remove volatility;
- vi. Assess what will be the impact on investment if the market's design is varied on security of supply;
- vii. Determine the effect of any changes to the code with respect to rebidding will have on the operation of renewable generators recognizing that to date that NEM has been designed to be "technology neutral" and that this should objective should continue;
- viii. Identify the role that demand side initiatives can play in reducing volatility and whether any reform of retail structures would assist the creation of demand responses.

Hydro Tasmania believes that the Market Forum needs to be convened by the ACCC in the time frame it envisaged but following consultation between the ACCC and the individual NEM Ministers to ensure that it incorporates the perspective of the Ministers and to encourage the Jurisdictions not to duplicate this important initiative. The Market Forum should be funded by NECA but managed by the ACCC.

10. Conclusion

In conclusion, Hydro Tasmania believes that the NEM is at a critical turning point and the valuable lessons from the debate on rebidding should not be wasted. The proposal for a Market Forum, if translated into action, will provide a valuable mechanism by which through analysis of public policy issues associated with the development of the NEM can be progressed. This will allow matters to be thoroughly assessed in terms of their potential costs and benefits to both the community and the market participants. This will ensure that necessarily prescriptive processes of an authorisation process are not used inappropriately. It will still enable an appropriate assessment of public benefits and anti competitive detriments to be made by the economic regulator if required.

In relation to the proposed changes, Hydro Tasmania supports the system security changes and the "good faith" proposal subject to further clarification. We consider that no coherent case has been made for the other changes and we consider that they would be severely detrimental to the market efficiency if implemented. We urge the ACCC to reject them.

Hydro Tasmania

27 September 2002