

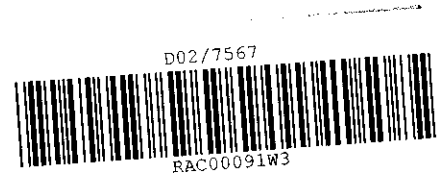


**NATIONAL ELECTRICITY CODE
ADMINISTRATOR LIMITED**

ACN 073 942 775

Level 5, 41 Currie Street
Adelaide SA 5000
Telephone (08) 8213 6302
Facsimile (08) 8213 6391

13 February 2002



Mr M Rawstron
General Manager, Regulatory Affairs – Electricity
ACCC
PO Box 1199
Dickson ACT 2602

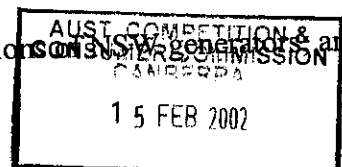
Dear Mike,

REVIEW OF TECHNICAL STANDARDS: INTERIM EXTENSION OF EXISTING DEROGATIONS

We published on 7 December last year the final report of our review of the technical standards in the Code. The report is available on our website (www.neca.com.au). It proposes a hierarchy of essentially the existing system standards and new access and plant standards designed to minimise barriers to entry to the market whilst at the same time ensuring that system security and power quality requirements are met in the most efficient way possible. It also proposes effectively grandfathering the existing chapter 8 and 9 derogations in relation to technical standards through the introduction of registered performance standards. This is intended to meet our commitment that the review would not result in the need for expensive retro-fitting in order to meet revised standards.

The Reliability Panel is currently consulting on the draft changes to the Code necessary to give effect to the report's conclusions and recommendations. That process, on what are complex and very technical issues, and the subsequent need to establish performance standards for all existing participants will inevitably and properly take some time. In the meantime, most of the existing chapter 8 and 9 derogations in relation to technical standards expire at the end of 2002. This letter, which follows consultation with affected Code participants and is written on behalf of all affected participants except in Queensland, seeks the Commission's approval to extend those existing derogations until twelve months after revised standards are gazetted but in any case no later than 31 December 2004. The enclosed draft chapter 8 derogations:

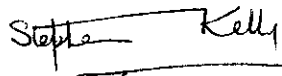
- ◆ extend the existing chapter 8 derogations of South Australian generators and import into chapter 8 those derogations of South Australian generators contained in chapter 9 which are due to expire;
- ◆ extend the existing chapter 8 derogations of NSW generators and



- ◆ upon the expiry of the corresponding chapter 9 derogations import into chapter 8 the existing derogations of Victorian generators and network service providers.

I believe that these draft derogations represent a pragmatic and commonsense way forward to ensure a managed transition to the new arrangements proposed in our report.

Yours,

A handwritten signature in black ink that reads "Stephen Kelly". The signature is written in a cursive style and is positioned above a horizontal line.

Stephen Kelly
Managing Director

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 (<i>See Direction 2</i>) | 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 NECA letter submitted with this Form E.

For the avoidance of doubt, this application relates only to changes to the Derogations contained in Chapter 8 and not to the Code as a whole. |
| (b) Description of the conduct that would or may | The supply of electricity or provision of network services on condition that both the |

constitute the practice of exclusive dealing (See Direction 4)

acquisition and resale is in accordance with the Code.

The acquisition of electricity or network services on the condition that the supply is in accordance with the Code.

Refusing to supply or acquire electricity or network services because the supplier/acquirer has failed to comply with the Code.

Aiding, abetting, procuring, counselling or inducing any corporation to engage in any of the above-mentioned conduct.

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

The classes of persons are:

- (i) the applicant;
- (ii) Code Participants, being the National Electricity Market Management Company Limited (ACN 072 010 327) ("NEMMCO") and every person registered with NEMMCO as a Code Participant and whose names and addresses are listed in Appendix A to this Form E; and
- (iii) 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 each person identified in Appendix A to this Form E. 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 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 and Code Participants (being NEMMCO and each person who is registered with NEMMCO as a Code Participant as at the date of this application and identified in Appendix A to this Form E). 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 43 |
| | | Customers 29 |
| | | Network Service Providers 26 |
| | | Special Participants 19 |
| | | Intending Participants 10 |
| | | Traders 7 |
| | (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 NECA letter, a copy of which is submitted with this Form E (and the accompanying Forms A and B). |
| (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 letter. |
| 5. (a) Does this application deal with a matter relating to a joint venture (See section 4J of the <i>Trade Practices Act 1974</i>)? | | 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: 12 February 2002

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.

Amendment to Derogations (Chapter 8) part 1 -

Derogations Granted to South Australian Generators

- (a) Obligations imposed on *Generators located in South Australia* under clause 5.2.5(a) and Schedule 5.2 of the *Code* are subject to the following variations and amendments in respect of the following generating units owned, controlled or operated by those Generators located in South Australia:

Power Station	Derogations
Torrens Island A Power Station Units 1 to 4	Not required to be capable of continuous operation where the voltage is below 92.5% of the <i>nominal voltage</i> . Governor controls not required to have linear reduction in response from 85% output to zero response at rated output. <u>Not required to operate in leading power factor mode.</u> <u>Not required to have power system stabilisers fitted.</u>
Torrens Island B Power Station Units 1 & 2	Not required to exceed 0.98 leading <i>power factor</i> mode. Not required to be capable of continuous operation where the voltage is below 94% of the <i>nominal voltage</i> . Governor controls not required to have <i>linear</i> reduction in response from 85% output to zero response at rated output.
Torrens Island B Power Station Units 3 & 4	Not required to exceed 0.98 <i>leading power factor</i> mode. Not required to be capable of continuous operation where the voltage is below 97% of the <i>nominal voltage</i> . Governor controls not required to have linear reduction in response from 85% output to zero response at rated output.
Northern Power Station Units 1 and 2	Not required to achieve a rate of load change greater than 1.2% of nameplate capacity per minute. <u>Not required to exceed 0.95 leading power factor.</u>
Playford Power Station Units 1 to 3	Not required to have power system stabilisers fitted. Not required to achieve a rate of load change greater than 3% of nameplate capacity per minute.
<u>Mintaro Gas Turbine Power Station</u>	<u>Not required to have on load tapping facilities.</u>
<u>Snuggery Gas</u>	<u>Not required to achieve a rate of load change greater</u>

<u>Turbine Power Station Units 1 to 3</u>	<u>than 4% of total capacity per minute.</u>
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- (b) This *derogation* will cease to apply in relation to *Generators* located in South Australia ~~after 31 December 2002, on the earlier of:~~
- (1) the end of 31 December 2004; or
 - (2) the beginning of the day 12 months after the performance standards commencement date (as defined in the Proposed Code Changes in the Reliability Panel's Consultation Paper entitled "Review of technical standards", published on 11 January 2002 by NECA).

Amendment to Derogations (Chapter 8) part 2 clause 10 -

10. Cessation of derogation

This *derogation* will cease to apply in relation to *Generators* located in New South Wales ~~after 31 December 2002, on the earlier of:~~

- (a) the end of 31 December 2004; or
- (b) the beginning of the day 12 months after the performance standards commencement date (as defined in the Proposed Code Changes in the Reliability Panel's Consultation Paper entitled "Review of technical standards", published on 11 January 2002 by NECA).

Amendment to Derogations (Chapter 8) new part 6 -

Derogations Granted to Victorian Market Participants

- (a) In this *derogation*, *Derogation commencement date* means the beginning of 1 January 2003.
- (b) On and from the *Derogation commencement date*, the obligations under clause 5.2.1(b), clause 5.2.2(b) and schedule 5.1 of the *Code*, or any *connection agreement* referred to in clause 5.2.2(b), on SPI PowerNet Pty Ltd and the Victorian Energy Networks Corporation are subject to variations, amendments or other derogations set out in clauses 9.7.5(b), (c) and (d) of Chapter 9 of the *Code* (as in force immediately before that date), and for that purpose, those clauses apply to SPI PowerNet Pty Ltd and the Victorian Energy Networks Corporation as if:
 - (1) a reference to VPX were a reference to the Victorian Energy Networks Corporation; and
 - (2) a reference to GPU PowerNet were a reference to SPI PowerNet Pty Ltd.

(c) On and from the Derogation commencement date, the obligations under clause 5.2.5(a) and schedule 5.2 of the Code, or any connection agreement referred to in clause 5.2.5(a), on each individual Generator specified in Table 1 are subject to the variations, amendments or other derogations set out in schedule 9A3 of Part A of Chapter 9 of the Code (as in force immediately before that date), and for that purpose, that schedule applies with any necessary modification to that individual Generator as if:

- (1) a reference to a Generator in that schedule were a reference to that individual Generator; and
- (2) a reference to a Network Service Provider in relation to a generating unit or a Generator listed in a table in that schedule, where the generating unit is connected to a transmission network, were a reference to the Victorian Energy Networks Corporation; and
- (3) a reference to the Code commencement date in that schedule were a reference to the Derogation commencement date; and
- (4) in the tables in that schedule, every reference to a Generator other than that individual Generator were omitted; and
- (5) in the case where the individual Generator is AES Transpower Holding Pty Ltd, a reference to Generation Victoria in that schedule were a reference to it.

Table 1
Generator

<u>1.</u>	<u>AES Transpower Holding Pty Ltd</u>
<u>2.</u>	<u>Edison Mission Energy Australia Ltd</u>
<u>3.</u>	<u>Energy Brix Australia Corporation Pty Ltd</u>
<u>4.</u>	<u>Hazelwood Power</u>
<u>5.</u>	<u>Loy Yang Power Management Ltd</u>
<u>6.</u>	<u>Southern Hydro Partnership</u>
<u>7.</u>	<u>State Electricity Commission of Victoria (in its capacity as Smelter Trader)</u>
<u>8.</u>	<u>Yallourn Energy Pty Ltd</u>

(d) This derogation will cease to apply on the earlier of:

- (1) at the end of 31 December 2004; or
- (2) the beginning of the day 12 months after the performance standards commencement date (as defined in the Proposed Code Changes in the

Reliability Panel's Consultation Paper entitled "Review of technical standards", published on 11 January 2002 by NECA.

Appendix A

to

**Form A Application for Authorisation in respect of
Exclusionary Provisions**

**Form B Application for Authorisation in respect of Agreements
Affecting Competition**

**Form E Application for Authorisation in respect of Exclusive
Dealing**

List of Code participants



List of Code participants

Company Aliases	Street Address	City	State	Postcode
ActewAGL Distribution	221-223 London Circuit	CANBERRA	ACT	2601
ActewAGL Retail	GPO Box 366	CANBERRA CITY	ACT	2601
AES Transpower Holding Pty Ltd	Level 5, 416 Collins Street	MELBOURNE	VIC	3000
AGL Electricity Ltd	AGL Centre, 111 Pacific Highway	NORTH SYDNEY	NSW	2060
AGL South Australia Pty Ltd	1 Anzac Highway	KESWICK	SA	5035
Aurora Energy Pty Ltd	GPO Box 191	HOBART	TAS	7000
Australian Energy Services Pty Ltd	38 Gilby Road	MT WAVERLEY	VIC	3149
Australian Inland Energy	Administrative Building, 160-162 Beryl Street	BROKEN HILL	NSW	2880
BIEP Pty Ltd	PO Box 4	PINKENBA	QLD	4008
Callide Power Trading Pty Ltd	Level 9, 133 Mary Street	BRISBANE	QLD	4000
Citipower Pty	Level 15, Citipower House, 628 Bourke Street	MELBOURNE	VIC	3000
Country Energy	PO Box 172	BATHURST	NSW	2795
CS Energy Ltd	Level 21, 66 Eagle Street	BRISBANE	QLD	4000
CSR Limited	Pioneer Mill	BRANDON	QLD	4808
Cummins Engine Company Pty Ltd	2 Carribean Drive	SCORESBY	VIC	3179
Delta Electricity	Level 12, Darling Park, 201 Sussex Street	SYDNEY	NSW	2000
Duke Energy Australia Trading & Marketing Pty Ltd	Level 17, 1 Castlereagh Street	SYDNEY	NSW	2000

Company Aliases	Street Address	City	State	Postcode
Duke Energy Bairnsdale Operations Pty Ltd	PO Box 7863	BRISBANE	QLD	4000
EdgeCap	Level 8, IBM Building, 60 City Road	SOUTH BANK	VIC	3006
Edison Mission Energy Australia Ltd	Level 20, HWT Tower Southgate	SOUTH MELBOURNE	VIC	3205
Energy Developments (Operations) Pty Ltd	Level 2, 199 Toorak Road	SOUTH YARRA	VIC	3141
ElectraNet SA	PO Box 7096	ADELAIDE	SA	5000
Electricity Supply Industry Planning Council	GPO BOX 2010	ADELAIDE	SA	5001
EMMLINK Pty Ltd	Level 24, AMP Place, 10 Eagle Street	BRISBANE	QLD	4000
Energex Ltd	150 Charlotte Street	BRISBANE	QLD	4000
Energex Retail Pty Ltd	GPO Box 1461	BRISBANE	QLD	4001
Energy Australia	Level 22, 570 George Street	SYDNEY	NSW	2000
Energy Brix Australia Corporation Pty Ltd	Hazelwood Drive	MORWELL	VIC	3840
Enron Australia Finance Pty Ltd	Level 21, 9 Castlereagh Street	SYDNEY	NSW	2000
Eraring Energy (formerly Pacific Power)	GPO Box 5257	SYDNEY	NSW	2000
Ergon Energy Corporation Ltd (network)	Level 4, 126 Margaret St 30 Marble Street	Brisbane	QLD	4002
Ergon Energy Pty Ltd (Retail)	Ground floor, 61 Mary Street	BRISBANE	QLD	4001
Ergon Energy (Victoria) Pty Ltd	Level 2, 150 Albert Road	SOUTH MELBOURNE	VIC	3205
ETSA Utilities	GPO Box 77	ADELAIDE	SA	5001
Ferrier Hodgson Electricity Pty Ltd	Level 17, 2 Market Street	SYDNEY	NSW	2000
Hazelwood Power	Brodribb Road	MORWELL	VIC	3840
HQI Australia Limited Partnership	Level 24, AMP Place, 10 Eagle Street	BRISBANE	QLD	4000
Integral Energy Australia	51 Huntingwood Drive	HUNTINGWOOD	NSW	2148
Loy Yang Power Management Ltd	Bartons Lane	TRARALGON SOUTH	VIC	3844

Company Aliases	Street Address	City	State	Postcode
Macquarie Bank Ltd	GPO Box 4294	SYDNEY	NSW	1164
Macquarie Generation	34 Griffiths road	LAMBTON	NSW	2299
Meridian Energy Australia Pty Ltd	Level 12, 37 Bligh Street	SYDNEY	NSW	2000
Millmerran Energy Trader Pty Ltd	Level 18, Comalco Place 12 Creek Street	BRISBANE	QLD	4000
Morgan Stanley Dean Witter Australia Finance Ltd	1585 Broadway, 4 th Floor,	NEW YORK	10036 -8293	USA
NRG Flinders Operating Services Pty Ltd	168 Greenhill Road	PARKSIDE	SA	5063
Origin Energy Electricity Ltd	GPO Box 910	SYDNEY	NSW	1041
Pelican Point Power Limited	Level 2, 122 Frome Street	ADELAIDE	SA	5000
Powercor Australia Ltd	Level 8, 40 Market Street	MELBOURNE	VIC	3000
Pulse Energy Pty Ltd	Shell House, 1 Spring Street	MELBOURNE	VIC	3000
Queensland Electricity Transmission Corporation Ltd (Powerlink Queensland)	33 Harold Street	VIRGINIA	QLD	4104
Queensland Power Trading Corporation trading as Enertrade)	15th Floor, 61 Mary Street	BRISBANE	QLD	4000
Redbank Project Pty Ltd	112 Longpoint Road-West	WALKWORTH via Singleton	NSW	2330
RMB Australia Ltd	Level 5, 37-49 Pitt Street	SYDNEY	NSW	2000
SG Australia	Level 21, 400 George St	SYDNEY	NSW	2000
Sithe Australia Power Services Pty Ltd	Level 12, The Chifley Tower, 2 Chifley Square	SYDNEY	NSW	2000
Snowy Hydro Trading Pty Ltd	Level 25, Norwich House, 6-10 O'Connell Street	SYDNEY	NSW	2000

Company Aliases	Street Address	City	State	Postcode
Snowylink 1 Pty Ltd	GPO Box 7707, Riverside Centre	BRISBANE	QLD	4001
Snowy Mountains Hydro-Electric Authority	Monaro Highway	COOMA	NSW	2630
Southern Hydro Partnership	Level 13, 500 Collins Street	MELBOURNE	VIC	3000
SPI PowerNet Pty Ltd	Level 17, 452 Flinders St	MELBOURNE	VIC	3000
Stanwell Corporation Ltd	GPO Box 773	BRISBANE	QLD	4001
State Electricity Commission of Victoria	Level 5, 452 Flinders Street	MELBOURNE	VIC	3000
Synergen Power Pty Ltd	Level 37, Rialto Tower North, 525 Collins St	MELBOURNE	VIC	3000
Tarong Energy Corporation Ltd	Level 10, AMP Place, 10 Eagle Street	BRISBANE	QLD	4000
NSW Electricity Transmission Authority (TransGrid)	Cnr Park and Elizabeth Streets	SYDNEY	NSW	2000
Transmission Lessor Corporation	ETSA, 1 Anzac Highway	KESWICK	SA	5035
TXU Electricity Ltd	168 Greenhill Road	PARKSIDE	SA	5063
TXU (South Australia) Pty Ltd	Level 18, 452 Flinders Street	MELBOURNE	VIC	3000
United Energy Limited	Level 13, 101 Collins Street	MELBOURNE	VIC	3000
Utilities Management Pty Ltd	Level 6, 1 Anzac Highway	KESWICK	SA	5035
Valley Power Pty Ltd	Level 20, HWT Tower 40 City Road	SOUTH MELBOURNE	VIC	3205
VENCorp	PO Box 1721	COLLINGWOOD	VIC	3066
Yallourn Energy Pty Ltd	Level 31, 360 Collins St	MELBOURNE	VIC	3000
Yamasa Seafood Australia Pty Ltd	20 Gilbertson Road	LAVERTON NORTH	VIC	3026

Known intending participants

Auspine Green Energy Pty Ltd	PO Box 79	MOUNT GAMBIER	SA	5290
CEPA (Kogan Creek) Holding	GPO BOX 2256	BRISBANE	QLD	4001
Energy Brix Australia Corporation Pty Ltd	Applicant only at this stage – no address details			
Ergon Energy Pty Ltd	Applicant only at this stage – no address details			
Herschel Electricity Partners Pty Ltd	Applicant only at this stage – no address details			
Hydro-Electric Corporation	GPO Box 335	Hobart	TAS	7001
Jackgreen (International) Pty Ltd	Applicant only at this stage – no address details			
Murraylink Transmission Co Pty Ltd	GPO Box 7077, Riverside Centre	BRISBANE	QLD	4001
National Grid International Ltd.	Level 52, Rialto South Tower, 525 Collins Street	MELBOURNE	VIC	3000
Pacific Hydro Limited	Applicant only at this stage – no address details			
Sleiman Trading Pty Ltd	PO Box 334	POTTS POINT	NSW	2001
Snowy Hydro Limited	Applicant only at this stage – no address details			
Southerlink Transmission Company Pty Ltd	GPO Box 7707 Riverside Centre	BRISBANE	QLD	4001
Wambo Power Ventures Pty Ltd	Level 1, Princeton Court Three, 13 Princeton Street	KENMORE	QLD	4069