MinterEllison

LAWYERS

20 March 2014

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Hayley Parkes
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Australian Competition & Consumer Commission
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Dear Hayley

A91412 & A91413 - Stanwell Corporation Limited & Diamantina Power Station Pty Ltd

We refer to the video conference held between representatives of the Commission, Stanwell Corporation Limited (**Stanwell**) and Diamantina Power Station Pty Limited (**DPS Co**) on 5 March 2014.

As requested in our videoconference, we **attach** an annotated Schedule 1 to the applicants' submission in support of the applications for authorisation

The annotated Schedule 1 has been presented in tabular form:

(a) identifying the arrangement from Schedule 1;

(b) providing extracts from the relevant clause of the draft Dispatch Protocol as at February 2014; and

(c) summarising at a high level the potential competition concerns arising from the arrangement.

As the Commission is aware, the draft Dispatch Protocol is a work in progress and subject to further negotiation between Stanwell, DPS Co and other participants. The draft does not represent Stanwell's or DPS Co's final position on the matters stated in it and has not yet received any formal internal approval. The extracts included in the annotated Schedule 1 represent the current draft as at February 2014.

In relation to the potential competition concerns identified in the table, the applicants' position as set out in its submission in support of the applications is that the proposed conduct does not have any, or any significant, anti-competitive effects. The sections identified in the third column, are for reference only, and do not constitute an admission of actual or potential breach. The table identifies the possible competition issues which may arise although the parties do not consider that they do so in this instance.

If you have any questions or wish to discuss any aspect of this matter, please do not hesitate to contact us.

Yours faithfully
MINTER ELLISON

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enclosure

Copy to Vishal Ahuja Vishal.Ahuja@au.kwm.com

Arrangements identified in Schedule 1 of Submission in support of Application for Authorisation

No.	Arrangement	Clause	Competition Concerns
1.	**Operational control** The Major Generators agree the Generation Co-ordinator will co-ordinate the dispatch of electricity as required, to maintain system frequency, voltage and reactive power flows and time error control for the NWPS, in order to ensure that they are able to meet their contractual obligations to their customers.	2.10 High Level Principles The Dispatch Protocol is based on the following high level principles: … (h) the Generation Coordinator will be responsible for coordinating the operations of the Major Power Stations so that the following factors are controlled effectively and in compliance with the requirements of Schedule 2:- i. system frequency; ii. voltage and reactive power flows through suitable control mechanisms; iii. Major Generator loading in compliance with contractual obligations through application of appropriate governor control mechanisms; and iv. management of the Major Generators' energy balance process. … 2.13 Generation Co-Ordinator The Generation Coordinator is appointed by the Working Committee and is responsible for the following:- … (b) to coordinate the process for generation dispatch between Major Generators in compliance with their respective contractual obligations, including any energy balance program; … 4.2 Energy Dispatch ... The Generation Co-ordinator has the obligation to coordinate the generation levels to enable the delivery of the necessary generation and to maintain system frequency, voltage and time error control for the NWPS as required by Schedule 2.9. Each Generator must comply with the instructions of the Generation Co-ordinator given in accordance with this Dispatch Protocol, but subject to the terms of the Energy Balance Agreement. 8.8 Major Generation Shortfall ... (b) Load Shedding System - LSS To avoid cascade tripping of generating units, a system of PLS, supported by a back-up FILS, following a generation shortfall will be provided by the MLSS. DPS Co will install the MLSS at	These arrangements may raise competition issues under the prohibitions on cartel conduct provisions (sections 44ZZRD(3)(a)(i) and (iii)), 44ZZRF, 44ZZRG, 44ZZRJ and 44ZZRK) and exclusionary provisions (sections 45(2)(a)(i) and (2)(b)(i) and 4D) by imposing restrictions on the major generators' ability to produce and supply electricity to their customers.

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DPS and the necessary connections via dedicated communication links to MCPS and to the SLSS at each Offtaker's site.

A PLS trip is initiated by a Generating Unit circuit breaker opening and causing a deficiency in total system on-line generation capacity compared with the system load at the time.

For a PLS trip, load shed signals are sent quickly (typically less than 50 milliseconds) to a SLSS unit at each Offtaker's site. The SLSS unit is connected directly to interrupters controlling the loads nominated for shedding.

Schedules 7 and 8 describe the MLSS and SLSS, including prioritisation of shedding and the procedures to be followed for implementation.

(c) Allocation of Loads to be shed

Controlled shedding of up to half of the connected loads would be effective in the majority of Contingency Events to restore the balance between generation capacity and load demand. If the frequency was not able to recover after this amount of load was shed, it is probable that no further shedding short of islanding the Major Power Stations and the total disconnection of all Offtakers would prevent complete loss of all generation.

Tripping of Offtaker loads by the MLSS will be aligned with the ESA or PPA supplying that Offtaker, i.e. the MLSS will prioritise tripping:

(i) MIM and EEQ loads following loss of DPS generation; and

(ii) MMG load following loss of MCPS generation.

...

(d) Back-up Systems

In the event of failure of the MLSS, the under frequency relay (FILS) installed at each Offtaker's site will eventually operate. This will function in an entirely reactive manner by monitoring system frequency and rate of change of frequency.

The purpose is to back-up the MLSS in event of its failure or the failure of the communication system to each Offtaker's SLSS or to respond to a generation shortfall situation undetectable by the MLSS. These will be delayed in operation to allow the PLS time to act.

No.	Arrangement	Clause	Competition Concerns
		As a final resort the 132kV and 220kV feeders from the Generating Units would be tripped by a FILS system to island the Major Power Stations, should the under frequency systems at the Offtakers' sites fail to shed sufficient load quickly enough to restore system frequency.	
2.	**Generation capacity** At any time the Major Generators will each have in service sufficient capacity to supply all the loads contracted and forecast by their respective offtakers and offtaker's customers. At any time the Major Generators will each have in service spinning capacity and reserve plant margin as required under agreements with their respective offtakers.	2.10 High Level Principles The Dispatch Protocol is based on the following high level principles: …. (i) Major Generators are required to have available sufficient generation capacity to ensure that they can satisfy the contractual obligations of their respective customers in relation to:- i. contracted load; ii. Spinning Reserve; and iii. Reserve Plant Margin; 4.5 Generation Capacity The capacity of the generating plant in service at any time will be subject to the terms of the Participants' ESAs and PPAs for loads contracted and forecast by Offtakers and Customers. Each Major Generator will provide Spinning Reserve and Reserve Plant Margin as required under the ESAs and PPAs with their respective Offtakers. There is no specific requirement for Spinning Reserve or Reserve Plant Margin under this Dispatch Protocol. ...	These arrangements may raise competition issues under the prohibitions on cartel conduct provisions (sections 44ZZRD(3)(a)(ii), 44ZZRF, 44ZZRG, 44ZZRJ and 44ZZRK) by imposing restrictions on the major generators' capacity to supply electricity.
3.	**New load** The Participants agree new loads or network extensions will be permitted if: (i) the new load or network extension complies with the prescribed technical requirements; and (ii) the prescribed system	2.10 High Level Principles The Dispatch Protocol is based on the following high level principles: … (b) new generation capacity, load and network extensions are welcome subject to complying with necessary technical requirements and addressing any issues the new generation capacity, load and network extensions may raise for safety, reliability and quality of electricity supply; … (q) new generation capacity, load and network extensions will be permitted by the Working Committee as long as the Working Committee is satisfied that the entity adding or seeking the additional capacity complies with the requirements of Schedule 2. 3.4 New Facilities in the NWPS	These arrangements may raise competition issues under the prohibitions on cartel conduct provisions (sections 44ZZRD(3)(a)(iii), 44ZZRF, 44ZZRG, 44ZZRJ and 44ZZRK) and exclusionary provisions (sections 45(2)(a)(i) and (2)(b)(i) and 4D) by: • imposing restrictions on

No.	Arrangement	Clause	Competition Concerns
	studies show that the proposed new load or network extension will not adversely impact the safety, reliability and quality of electricity supply in the NWPS and of its Participants; or (iii) if the studies identify an adverse impact on the safety, reliability and quality of electricity supply, the entity seeking the new load or network extensions addresses those issues to the satisfaction of the Working Committee acting honestly and reasonably before connecting.	The requirements for new and modified facilities are detailed in Schedule 2 and clauses 4.8 and 5.3. The Working Committee will permit a Participant to carry out a major extension to, or replacement of major components in, existing facilities, provided that the modifications to existing facilities comply with the requirements in Schedule 2. The Working Committee will admit a New Entrant if: (a) its facilities comply with the requirements in Schedule 2 and Schedule 3 (if relevant) prior to connection to the NWPS; and (b) it becomes a signatory to this Dispatch Protocol. ... 5.3 Future additions to the Supply Network A Participant which is a Network Owner or Network Operator may not undertake or allow any extension to the Supply Network or major changes of load to the NWPS unless the following conditions are met: (a) compliance with the technical requirements as detailed in Schedule 2; (b) approval from the Working Committee which approval must not be withheld if: (i) the full set of system studies has been completed as per the technical requirements as detailed in Schedule 3; and (ii) the results of the system studies show that the proposed network extension will not adversely impact the safety, reliability and quality of electricity supply in the NWPS and its Participants; or (iii) the studies identify an adverse impact on the safety, reliability and quality of electricity supply, and the entity addresses those issues to the satisfaction of the Working Committee acting honestly and reasonably before connecting.	the major generators' ability to supply electricity to their customers and new entrants; and • imposing restrictions on entry to the NWPS.
4.	**New generation capacity** The Participants agree that	2.10 High Level Principles The Dispatch Protocol is based on the following high level principles: ….	These arrangements may raise competition issues under the prohibitions on

No.	Arrangement	Clause	Competition Concerns
	additional generation capacity will be permitted to connect to the NWPS if: (i) the entity seeking to connect complies with the prescribed technical requirements; and (ii) the prescribed system studies show that the proposed generation will not adversely impact the safety, reliability and quality of electricity supply in the NWPS and of its Participants; or (iii) if the studies identify an adverse impact on the safety, reliability and quality of electricity supply, the entity seeking to connect addresses those issues to the satisfaction of the Working Committee acting honestly and reasonably before connecting.	(b) new generation capacity, load and network extensions are welcome subject to complying with necessary technical requirements and addressing any issues the new generation capacity, load and network extensions may raise for safety, reliability and quality of electricity supply; …. (o) any other equipment installed and commissioned after the Effective Date must comply with the requirements of this Dispatch Protocol including any Schedules that may be applicable; 3.4 New Facilities in the NWPS The requirements for new and modified facilities are detailed in Schedule 2 and clauses 4.8 and 5.3. The Working Committee will permit a Participant to carry out a major extension to, or replacement of major components in, existing facilities, provided that the modifications to existing facilities comply with the requirements in Schedule 2. The Working Committee will admit a New Entrant if: (a) its facilities comply with the requirements in Schedule 2 and Schedule 3 (if relevant) prior to connection to the NWPS; and (b) it becomes a signatory to this Dispatch Protocol. ... 4.8 Future Generation Capacity A Participant which is a Generator or Network Operator must not undertake or allow the addition of generation capacity to the NWPS unless the following conditions are met: (a) compliance with the technical requirements as detailed in Schedule 2; (b) approval from the Working Committee which approval must not be withheld if: (i) the full set of system studies has been completed as per the technical requirements as detailed in Schedule 3; and (ii) the results of the system studies show that the proposed generation will not adversely impact the safety, reliability and quality of electricity supply in the NWPS and its Participants; or	cartel conduct provisions (sections 44ZZRD(3)(a)(ii), 44ZZRF, 44ZZRG, 44ZZRJ and 44ZZRK) and exclusionary provisions (sections 45(2)(a)(i) and (2)(b)(i) and 4D) by: • imposing restrictions on the major generators' capacity to supply electricity; and • imposing restrictions on new generation connecting to the NWPS.

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			(iii) the studies identify an adverse impact on the safety, reliability and quality of electricity supply, and the entity addresses those issues to the satisfaction of the Working Committee acting honestly and reasonably before connecting. The proposed operation of new generation in parallel with the Major Generators or the Supply Network requires careful prior study and system design approval authorisation by the Working Committee and the Network Operator to do so. Consultation with all Offtakers will also be required to ensure that current fault ratings within the Offtakers own systems are not exceeded because of the connection of new generation.	
5.	**Starting large load** The Participants will agree an approval procedure for permitting connection of large loads. In accordance with this procedure, the Major Generators agree that they will not supply electricity to large individual loads rated greater than 3MW, or loads with an instantaneous apparent power demand during starting greater than 10MVA, without the approval of the Generation Co-ordinator except in certain limited circumstances.	6.3	Starting of Single Large Capacity Equipment For large individual loads rated greater than 3MW, or those with an instantaneous apparent power demand during starting greater than 10MVA a "permission to connect" procedure has been established. No such load may be started without the approval of the Generation Co-ordinator in accordance with the established procedure as outlined below. This takes the form of verbal communication between the Offtaker and the Generation Co-ordinator at least 30 minutes prior to the intended starting of such large loads. The Offtaker will nominate the intended starting time of day and the particular load to be started. The MW limit for large loads will be reviewed periodically and adjusted to match system capability as the power generation capacity is increased over time. Proposals to amend these load ratings should be submitted to the Working Committee for approval. If sufficient generation capacity will be available from the relevant Generator at the nominated time, the Generation Co-ordinator will promptly advise permission to start. Where notice is less than 30 minutes and the required generation capacity is immediately available, the Generation Co-ordinator is not to withhold or delay permission. The Offtaker will be required to communicate again if the intended starting or stopping time of day, or duration of the plant operation, is to be varied substantially from that previously nominated to the Generation Co-ordinator and relevant Generator. The Offtaker is to communicate to the Generation Co-ordinator any substantial unscheduled interruption (i.e. greater than a 10MW load and 30 minutes duration) by the Offtaker of a load that automatically stops and restarts, is cyclic in operation, and is operating under a previous permission. The load may be restarted following the unscheduled interruption without a further	These arrangements may raise competition issues under the prohibitions on cartel conduct provisions (sections 44ZZRD(3)(a)(iii), 44ZZRF, 44ZZRG, 44ZZRJ and 44ZZRK) and exclusionary provisions (sections 45(2)(a)(i) and (2)(b)(i) and 4D) by imposing restrictions on the major generators' ability to supply electricity.

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		permission to connect, providing the load will be operating within the forecast limits previously nominated. In the future the verbal communication procedure for permission to connect may be automated through an interlocking system subject to agreement between the Offtaker, the relevant Major Generator and the Generation Co-ordinator to do so, and it being technically feasible.	
6.	**Load shedding** The Participants will agree a system of load shedding following a generation shortfall whereby the Major Generators will cease supply to offtakers in accordance with the agreed system.	2.10 High Level Principles The Dispatch Protocol is based on the following high level principles: … (l) automatic load shedding, implemented through the MLSS, will be used to protect the NWPS and to mitigate the risk of a system collapse. Together with the SLSS, the MLSS will automatically disconnect agreed blocks of load within Offtakers' facilities in a structured process and FILS installed at each Offtaker's site will act to back up the MLSS; … 8.8 Major Generation Shortfall … (b) Load Shedding System – LSS To avoid cascade tripping of generating units, a system of PLS, supported by a back-up FILS, following a generation shortfall will be provided by the MLSS. DPS Co will install the MLSS at DPS and the necessary connections via dedicated communication links to MCPS and to the SLSS at each Offtaker's site. A PLS trip is initiated by a Generating Unit circuit breaker opening and causing a deficiency in total system on-line generation capacity compared with the system load at the time. For a PLS trip, load shed signals are sent quickly (typically less than 50 milliseconds) to a SLSS unit at each Offtaker's site. The SLSS unit is connected directly to interrupters controlling the loads nominated for shedding. ... (c) Allocation of Loads to be shed Controlled shedding of up to half of the connected loads would be effective in the majority of Contingency Events to restore the balance between generation capacity and load demand. If the frequency was not able to recover after this amount of load was shed, it is probable that no further shedding short of islanding the Major Power Stations and the total disconnection of all Offtakers	These arrangements may raise competition issues under the prohibitions on cartel conduct provisions (sections 44ZZRD(3)(a)(i) and (iii), 44ZZRF, 44ZZRG, 44ZZRJ and 44ZZRK) and exclusionary provisions (sections 45(2)(a)(i) and (2)(b)(i) and 4D) by: • imposing restrictions on the major generators' ability to produce and supply electricity to their customers; and • imposing restrictions on customers' acquisition of electricity from their major generator.

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			would prevent complete loss of all generation. Tripping of Offtaker loads by the MLSS will be aligned with the ESA or PPA supplying that Offtaker, i.e. the MLSS will prioritise tripping: (i) MIM and EEQ loads following loss of DPS generation; and (ii) MMG load following loss of MCPS generation. (d) Back-up Systems In the event of failure of the MLSS, the under frequency relay (FILS) installed at each Offtaker's site will eventually operate. This will function in an entirely reactive manner by monitoring system frequency and rate of change of frequency. The purpose is to back-up the MLSS in event of its failure or the failure of the communication system to each Offtaker's SLSS or to respond to a generation shortfall situation undetectable by the MLSS. These will be delayed in operation to allow the PLS time to act. As a final resort the 132kV and 220kV feeders from the Generating Units would be tripped by a FILS system to island the Major Power Stations, should the under frequency systems at the Offtakers' sites fail to shed sufficient load quickly enough to restore system frequency.	
7.	**Reconnection of load following a load shed event** The Major Generators agree to recommence supply to offtakers following a load shed event at the direction of the Generation Co-ordinator.	8.10	Procedure for restoration ... Managing the restoration in the most appropriate manner is likely to require a detailed exchange of data between the affected control centres. It may be necessary for the Generation Co-ordinator to make decisions regarding the restoration schedule to satisfy the priorities presented by all Offtakers and the operational capability of the NWPS. ... Each load shed event or system black event will need to be addressed as an individual event. Past operating experience will be of value in understanding the range of issues to be resolved during a system restoration. It is essential that the Generation Co-ordinator leads the restoration program and that all Participants in the NWPS cooperate to the fullest possible extent with requests made of them. Any such event will need to be the subject of a review by the Working Committee where performance concerns and improvement opportunities are identified for future application.	These arrangements may raise competition issues under the prohibitions on cartel conduct provisions (sections 44ZZRD(3)(a)(i) and (iii), 44ZZRF, 44ZZRG, 44ZZRJ and 44ZZRK) and exclusionary provisions (sections 45(2)(a)(i) and (2)(b)(i) and 4D) by imposing restrictions on the major generators' ability to produce and supply electricity to their

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			customers.
8.	**Arrangements in relation to EEQ** The Major Generators agree that EEQ is to be given priority of dispatch from DPS generation.	2.10 High Level Principles The Dispatch Protocol is based on the following high level principles: … (j) as a general principle, EEQ load is to be given priority of dispatch from DPS. However, this does not exclude EEQ loads from being included in the MLSS framework. This does not apply to dispatch from MCPS because EEQ does not have a PPA for electricity supply from MCPS; 8.8 Major Generation Shortfall (c) Allocation of Loads to be shed ... Approval is granted for all EEQ loads in a Group to be the priority which is shed last by DPS Co during any Contingency Event caused by a DPS Generating Unit trip (but ahead of the shedding of load that is not contracted to DPS). ...	These arrangements may raise competition issues under the prohibitions on cartel conduct provisions (sections 44ZZRD(3)(a)(iii), 44ZZRF, 44ZZRG, 44ZZRJ and 44ZZRK) and exclusionary provisions (sections 45(2)(a)(i) and (2)(b)(i) and 4D) by: • imposing restrictions on the major generators' ability to supply electricity; and • imposing restrictions on customers ' acquisition of electricity from their major generator.
9.	**Participants must be signatories to the Dispatch Protocol** The Major Generators agree that they will only: • supply electricity to offtakers; and • permit new generators to connect to the NWPS, if those offtakers and/or new generators are signatories to the Dispatch Protocol as amended from time to time.	2.12 System Management – The Working Committee ... Participants in the NWPS must be signatories to the Dispatch Protocol. Representatives must be authorised by their Participating organisation to act on behalf of the Participant in their dealings with the Working Committee. ... 3.4 New facilities in the NWPS ... The Working Committee will admit a New Entrant if: (a) its facilities comply with the requirements in Schedule 2 and Schedule 3 (if relevant) prior to connection to the NWPS; and (b) it becomes a signatory to this Dispatch Protocol.	These arrangements may raise competition issues under the prohibitions on cartel conduct provisions (section 44ZZRD(3)(a)(i) and (iii), 44ZZRF, 44ZZRG, 44ZZRJ and 44ZZRK) and exclusionary provisions (sections 45(2)(a)(i) and (2)(b)(i) and 4D) by: • imposing restrictions on the major generators' ability to produce and supply electricity to their customers and new entrants; and

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			• by imposing restrictions on entry to the NWPS.
10.	**Amendments to particulars** The Participants in the Dispatch Protocol are bound by amendments to the Dispatch Protocol, provided those amendments are consistent with the principles set out in paragraphs 1 - 9, and do not otherwise constitute a new contract, arrangement or understanding, in breach of the CCA.		These arrangements may raise competition issues under the prohibitions on cartel conduct provisions (section 44ZZRD(3)(a)(i) and (iii), 44ZZRF, 44ZZRG, 44ZZRJ and 44ZZRK) and exclusionary provisions (sections 45(2)(a)(i) and (2)(b)(i) and 4D) by imposing restrictions on the major generators' ability to produce and supply electricity to their customers and new entrants.