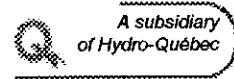


# TransÉnergie Australia Pty Ltd

ACN 084 240 602



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31 December 1999

FILE No:	C2000/84
DOC:	000/3774

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

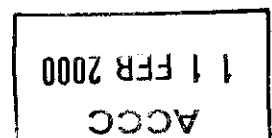
Dear Mr Rawstron,

**Re: Directlink Project - Access Undertaking**

I refer to your letter of 20 October 1999 and my subsequent discussion with Paul Bylik, regarding the submission of access undertakings by HQI Australia Limited Partnership (HQI) and EMMLINK Pty Limited (EMMLINK), the owners of Directlink.

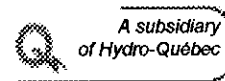
My letter to you of 15 October 1999 attached for your consideration draft access undertakings, proposed to be submitted by HQI and EMMLINK in respect of the Directlink project. These access undertakings were in the form set out in schedule 5.8 of the National Electricity Code (Code). You have requested that HQI and EMMLINK also provide with these undertakings, details of the terms and conditions used to allocate capacity and the approach for dealing with future access applications once the initial capacity is fully allocated.

The Directlink owners are of course willing to provide the ACCC information about Directlink. However, I would like to clarify that at this stage the Directlink owners are agreeing to provide access to Directlink in accordance with Chapter 5 of the Code as it presently stands. This is despite the fact that the proposed clause 5.2.3(i) of the Code will provide that that chapter is not intended to require a Network Service Provider to permit connection to, nor to augment, any parts of its network which are used solely for the provision of market network services. However this new clause has not yet been authorised by the ACCC and Chapter 5 of the Code has not yet been amended to include this provision. Accordingly, in submitting an access undertaking in the form of schedule 5.8 as attached, the Directlink owners are committing to provide access to Directlink in accordance with Chapter 5 of the Code, in its current form, and will respond to any connection query in the same manner as other Network Service Providers.



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In our view the approval of clause 5.2.3(i) should initiate discussion and agreement regarding the form of access undertaking to be provided by market network service providers. To that effect we understand that NECA and the ACCC are currently discussing the need for and form of access undertaking to be provided by market network service providers. Again (as pointed out in my letter of 15 October 1999) Chapter 8 of the Final Report on NECA's Transmission and Distribution Pricing Review foreshadowed that non-regulated interconnectors would provide access undertakings on terms different to that provided by regulated network service providers and that the transmission service regulation and pricing arrangements in Chapter 6 of the Code would not apply to non-regulated interconnectors. We also believe that different Market Network Service Providers may require differing access undertakings, depending on the size of the proposed Market Network Service relative to the price regions being connected. While the Directlink owners are willing to commit to provide access to Directlink in accordance with Chapter 5 of the Code as it presently stands, we agree that further discussion on access undertakings for market network service providers is required.

Despite this, I attach for your consideration the following documents:

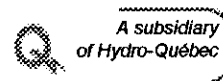
- the draft access undertakings to be submitted by HQI and EMMLINK (which are the same as that provided to you on 15 October 1999);
- a demonstration that the physical transmission capacity over Directlink will be made available to the market through the same process as all other transmission capacity (ie, through participation in the NEMMCO dispatch process);
- a discussion of the allocation of physical transmission capacity and the approach for dealing with future requests for additional physical transmission capacity; and
- a summary of the transmission products that could be sold by HQI and EMMLINK in respect of Directlink's capacity.

These final three points are discussed in Appendix A to this letter.

As detailed above we remain aware of the potential uncertainty regarding the need for, and terms upon which, access undertakings must be provided by market network service providers. The attached undertakings would be provided subject to the outcome of current discussions between NECA and the ACCC. HQI and EMMLINK reserve the right to withdraw or modify their access undertakings if it is later determined that a different form of access undertaking, or no access undertaking, is to be provided by market network service providers. Could you please confirm this would be acceptable?

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Could you also confirm that the ACCC will not be inviting public submissions in respect of these undertakings, given that the form of undertaking set out in schedule 5.8 of the Code has been retained?

If you have any questions in relation to these matters, please do not hesitate to contact me.

Yours faithfully

A handwritten signature in cursive script that reads 'Tony Cook'.

A. S. Cook

## **Appendix A**

### **Background**

Market Network Service Providers are eligible to bid 'transport' capacity into the National Electricity Market (NEM), and have an entitlement to spot market revenue based on actual power flows over the service and the difference between the spot market prices at the service terminals.

HQI Australia Limited Partnership (HQI) and EMMLINK Pty Limited (EMMLINK) are the owners of Directlink, an electricity transmission cable connecting the New South Wales and Queensland electricity grids. It is proposed Directlink be classified as a Market Network Service, and HQI and EMMLINK registered as Market Network Service Providers, for the purposes of the National Electricity Code (Code).

### **Demonstration that physical capacity over Directlink will be made available to the market through the NEMMCO dispatch process**

As Network Service Providers within the National Electricity Market (NEM), HQI and EMMLINK will collectively make all of the physical transmission capacity in Directlink available to the market. The Access Undertakings proposed by HQI and EMMLINK require them to abide by the terms of the Code; one of those requirements is that all of the Market Network Services provided over Directlink be scheduled by the National Electricity Market Management Company (NEMMCO).

Thus, all of the physical transmission capacity (ie, the Market Network Services) over Directlink will be scheduled by NEMMCO for use by the entire market. The scheduling and dispatch process that will be used by NEMMCO for Market Network Services is the same scheduling process used by NEMMCO to dispatch all electric generation and transmission in the NEM. The objectives of that scheduling and dispatch process are to meet the needs of the market, and to maximize the value of trade through the spot market.

Hence, the access undertakings proposed by HQI and EMMLINK will ensure that all of the physical transmission capacity over Directlink will be made available to the market through the same scheduling and dispatch process as all other transmission in the NEM. Physical transmission capacity will be used or allocated by the market through the NEMMCO dispatch process.

### **Allocation of physical transmission capacity**

As discussed above, physical transmission capacity over Directlink will be continuously used or allocated by the market in accordance with the NEMMCO dispatch process. This allocation will be designed to maximize the value of trade through the spot market, in the same manner that physical transmission capacity is allocated over all transmission assets

(ie, NEMMCO receives all of the physical transmission capacity from all Network Service Providers and includes that capacity in the dispatch algorithm).

The right to receive spot market revenues associated with transmission capacity actually used by NEMMCO instead of a regulated revenue stream determined under Chapter 6 is the difference between Market Network Services and regulated network services. Owners of the transmission assets used to provide Market Network Services do not rely on the regulated income stream normally used to finance other transmission assets, but instead rely on the spot market revenues. Those spot market revenues for Market Network Services are determined under the provisions of Chapter 3 of the Code.

In the case of Directlink, the rights to receive spot market revenues were initially allocated in accordance with the ownership and financing of the Directlink assets. Hence, HQI and EMMLINK (who each financed 50% of Directlink's costs) each received the right to 50% of the transmission capacity over these facilities.

#### **Future request for additional physical capacity**

Additional transmission capacity within the NEM is planned and developed through the general transmission capacity planning process under the Code. As registered Network Service Providers, EMMLINK and HQI would participate in that process and (with other Network Service Providers), would respond to the needs of the market for any additional transmission capacity. Any market interest in obtaining additional Market Network Services would be addressed through the normal commercial negotiations between buyers and sellers of market-priced commodity products. Any demand for additional regulated Network Services would be met addressed through the transmission planning process embodied in the Code.

#### **Nature of Capacity Products**

Over the life of the Directlink project, transmission service over Directlink may be sold through two products, namely a "Financial Hedging Product" and a "Physical Trading Product".

#### *Financial Hedging Product*

The Financial Hedging Product would be a financial instrument that references the regional or (potentially) nodal spot market energy prices in the NEM. The Financial Hedging Product could take many forms, including swaps, options, collars and forwards. EMMLINK and HQI are in the process of applying for approval from the Australian Securities & Investments Commission (ASIC) to sell these financial instruments.

Once EMMLINK and HQI have received approval from ASIC to sell financial instruments, they may elect to do so from time to time on purely commercial terms. The prices, terms, conditions and process for such sales would be determined by the buyer and seller, in the same manner that other financial contracts in the electricity sector are traded.

### *Physical Trading Product*

From time to time, EMMLINK and HQI may elect to sell their rights to bid the Directlink transmission capacity into the NEM, and to receive the associated spot market revenue. This type of commercial transaction would **not** involve a “sale of capacity”, but rather a sale of the rights to bid capacity into the NEM dispatch process. Since all of Directlink’s physical capacity would continue to be dispatched by NEMMCO through the normal NEM dispatch process, all of the capacity would continue to be made available to the market through that process.

As a condition of such a sale, EMMLINK and HQI would require that any buyer of the Physical Trading Product (if required by law or the Code) either:

- (1) agree to abide by the terms and conditions of the access undertakings in effect at the time for EMMLINK and HQI; or
- (2) file with, and receive approval from, the ACCC for a separate access undertaking, if such an undertaking is required from Market Network Service Providers.

### **Sales of Financial Hedging and Physical Trading Products**

The prices, terms, conditions and process for sales of the financial hedging and physical trading products will be determined through commercial negotiations between prospective buyers and the sellers, in the same manner that other contracts in the electricity sector are traded.

A decision by the sellers on whether to accept a particular contract offer will be based on a number of factors. In the first instance the seller will compare the revenue expected to be earned through spot market participation against the revenue offered through the contract. If the contract revenue is less than the expected spot market revenue the seller may assign a premium to the contract revenue. The premium would reflect the additional value the seller assigned (to the contract revenue) given that the contract revenue would show none of the volatility inherent in the spot market revenue. That is, the premium would be commensurate with the seller’s tolerance to the spot market risks.

At any point in time the seller’s capacity portfolio will consist of a mixture of contracted and uncontracted capacity. Standard risk management practice will determine how the seller evaluates how the specific terms and conditions offered by the buyer fit into the seller’s capacity portfolio. For example:

- **Contract duration**  
If the seller’s portfolio consists largely of long term contracts the seller’s risk management practices may dictate a preference for shorter term contracts. Conversely, if the seller’s portfolio consists largely of short-term contracts, the seller may have a preference for longer term contracts.
- **Contract capacity**

If the seller's portfolio consists largely of smaller capacity contracts the seller's risk management practices may dictate a preference for larger capacity contracts. Conversely, if the seller's portfolio consists mainly of larger capacity contracts, the seller may have a preference for a smaller capacity contract.

- **Credit risk**  
The overall credit risk of the total portfolio will be continually assessed and balanced against the seller's tolerance and pricing of credit risks.

### **Conclusion**

Transmission service over Directlink will be sold by willing sellers (the Directlink owners) to willing buyers (such as generators, retailers and energy traders) on mutually acceptable terms and conditions. The term, quantity and price of such contracts will be determined by agreement between buyer and seller.

**Undertaking Given to the Australian Competition and  
Consumer Commission Under Section 44ZZA of the  
Trade Practices Act 1974**

This undertaking is given by **EMMLINK PTY LTD** (ACN 085 123 468) c/o TransEnergie Australia Pty Limited Level 24, AMP Place, 10 Eagle Street Brisbane QLD 4000 (“EMMLINK”).

**Effective date**

This undertaking has effect from the date on which it is accepted by the Australian Competition and Consumer Commission.

**Expiry date**

This undertaking expires 6 months from the date it is accepted by the Australian Competition and Consumer Commission.

**Interpretation**

Words appearing in italics in this undertaking have the meaning given to them by Chapter 10 of the *National Electricity Code*.

**Undertaking**

On registration by *NEMMCO* as a *Market Network Service Provider*, EMMLINK undertakes to provide access to its *market network services* on the terms and conditions set out below.

**Terms and conditions of connection and access**

EMMLINK undertakes to maintain and make available access to its *market network services*

:

- (a) by *Code Participants* in accordance with the requirements of the *Code* (other than Chapter 6); and
- (b) by all persons in accordance with:
  - (1) *applicable regulatory instruments*; and
  - (2) *good electricity industry practice* and applicable *Australian Standards*.

**Withdrawal or variation of undertaking**


EMMLINK may, with the consent of the Australian Competition and Consumer Commission, withdraw or vary this undertaking at any time.




**Signed for**

[opt1] **EMMLINK PTY LTD**

by its duly authorised representative  
in the presence of:

  
\_\_\_\_\_  
Witness

Kristy Perry.  
\_\_\_\_\_  
Name (please print)

  
\_\_\_\_\_  
Representative

D. Chubb (COMPANY SECY)  
\_\_\_\_\_  
Name (please print)