

National Electricity Law (Schedule to the *National Electricity (South Australia) Act 1996*) and the National Electricity Rules applied as the law of Queensland by the *Electricity - National Scheme (Queensland) Act 1997*

BETWEEN

**Millmerran Energy Trader Pty Ltd (ACN 084 923 973)**

Applicant

AND

**National Electricity Market Management Company Limited (ACN 072 010 327)**

Respondent

## **NOTICE OF DIRECTION TO BECOME A PARTY TO DISPUTE**

Each entity listed in Annexure A to this Notice ("Entity") is notified that pursuant to clause 8.2.6B(b) of Version 10 of the National Electricity Rules ("Rules") the Dispute Resolution Panel established to determine this dispute ("Panel"):

- (a) considers that each Entity should become a party to the dispute on the grounds set out in Part 4 of this Notice; and
- (b) subject to further direction, hereby directs that each Entity becomes a party to the dispute on Friday 15 December 2006.

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### **Part 1: Names of other parties to the dispute**

1.1 The names of the parties to the dispute are Millmerran Energy Trader Pty Ltd (ACN 084 923 973) ("Millmerran") and National Electricity Market Management Company Limited (ACN 072 010 327) ("NEMMCO").

1.2 However, on 6 December 2006, the Panel directed that:

- "1. Subject to further direction, each of the Registered Participants and Transmission Network Service Providers listed in Annexure A that receives written notice pursuant to clause 8.2.6B(b) of the National Electricity Rules becomes a party to this dispute on Friday 15 December 2006.*
- 2. A hearing for further directions in this dispute be fixed for 11.00am on Thursday 14 December 2006 at Level 9, 52 Phillip Street, Sydney, unless alternative arrangements are notified to the parties by the Panel through the Adviser."*

("Panel Direction").

1.3 "Annexure A" referred to in the Panel Direction is the same as Annexure A attached to this Notice.

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## **Part 2: Brief history of the dispute and circumstances giving rise to it**

- 2.1 Millmerran served a DMS Referral Notice on NEMMCO on 28 June 2006, in which Millmerran disputes the application and interpretation of the Rules by NEMMCO that resulted in:
  - (a) the calculation of intra-regional loss factors for its generators for the 2006/2007 financial year; and
  - (b) the publishing of those intra-regional loss factors by NEMMCO on 31 March 2006 in a document entitled “List of Regional Boundaries and Marginal Loss Factors for the 2006/07 Financial Year”.
- 2.2 Millmerran alleges that the intra-regional loss factors published by NEMMCO for the Millmerran Power Station for the 2006/2007 financial year are incorrect. It seeks to have its intra-regional loss factors recalculated and re-published for the 2006/2007 financial year in accordance with NEMMCO’s published methodology and seeks to have its settlement statements revised under clause 3.15.19 of the Rules to reflect the re-published intra-regional loss factors.

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## **Part 3: The results of previous dispute resolution processes**

- 3.1 NEMMCO and Millmerran had direct discussions concerning the dispute since 28 June 2006.
- 3.2 Millmerran referred the dispute to the Adviser on 19 September 2006.
- 3.3 As a result of information provided by Millmerran, NEMMCO reviewed its calculations and agrees that two errors have occurred:
  - (a) the first error involved the double-counting of auxiliary loads; and
  - (b) the second error involved the scaling of generation used in the calculations.
- 3.4 NEMMCO has prepared recalculated intra-regional loss factors for the 2006/2007 financial year. However, NEMMCO considers it is unable to publish the recalculated intra-regional loss factors under the Rules.
- 3.5 On 20 November 2006, the Adviser referred the dispute to the Panel for determination.

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## **Part 4: Grounds on which the Panel considers each Entity should be made a party to the dispute**

- 4.1 The Panel’s determination of this dispute will not bind non-parties. Therefore if the practical effect of the determination is to impact on other Registered Participants and Transmission Network Service Providers (“TNSPs”) those persons should be joined to the dispute.
- 4.2 The Panel considers that the practical effect of the determination will impact on each Entity.
- 4.3 NEMMCO and Millmerran seek a determination by the Panel to the effect that:

- (a) NEMMCO publish the recalculated intra-regional loss factors for the 2006/2007 financial year;
  - (b) the recalculated intra-regional loss factors take effect from 1 July 2006; and
  - (c) NEMMCO address any over or underpayments arising from any erroneous intra-regional loss factors through the revised settlement statements process.
- 4.4 A determination by the Panel that NEMMCO address any over or underpayments arising from any erroneous intra-regional loss factors through the revised settlement statements process will impact on the generators listed in Annexure A. Some of those generators have benefited from the errors while others have been adversely affected by reason of their having been paid for the electricity they have sold through the NEM based on incorrect intra-regional loss factors.
- 4.5 A determination by the Panel that NEMMCO address any over or underpayments arising from any erroneous intra-regional loss factors through the revised settlement statements process will also impact on the TNSPs listed in Annexure A. Any shortfall in payments to a region's generators would be taken from the intra-regional settlements residue payable to the region's TNSP.
- 4.6 In the absence of joinder, an Entity could raise a dispute about the adjustments which arise from revised settlement statements or future settlement statements that incorporate the recalculated intra-regional loss factors, potentially leading to a multiplicity of disputes on essentially the same issue.

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## **Part 5: Further information**

- 5.1 If an Entity that receives this Notice does not do anything in response to this Notice it will become a party to this dispute on 15 December 2006.
- 5.2 If an Entity requires further information about the Panel's dispute process it may contact the Adviser, Shirli Kirschner. Ms Kirschner will be available by telephone (+61 2 9380 6466; 0411 380 380) to discuss the Panel's processes in the afternoon of Friday 8 December 2006 and Monday 11 December 2006.
- 5.3 If an Entity objects to becoming a party to the dispute it must notify the Panel by 5.00pm on Wednesday 13 December 2006. A directions hearing has been fixed for the purpose of hearing any such objections as set out in the Panel Direction (paragraph 1.2, above).
- 5.4 NEMMCO has informed the Panel that it intends to submit to the Panel in due course that a joined party that does not actively participate in the dispute and notifies the Panel at the outset that it will abide by the determination of the Panel, should not be the subject of any adverse costs orders in relation to the dispute.

Dated this 6th day of December 2006

.....(Signed M J Clarke).....  
**Mr M J Clarke QC**  
**Dispute Resolution Panel**

## ANNEXURE A

The Registered Participants listed below are registered in the category or categories marked "1" for that Registered Participant.

REGISTERED PARTICIPANTS	ABN / ACN	Generator Market - Scheduled	Generator Market Non-Scheduled	Generator Non-Market - Scheduled	Generator Non-Market Non-Scheduled	Market Customer	NSP (Transmission)
	<b>Totals</b>	<b>30</b>	<b>17</b>	<b>1</b>	<b>12</b>	<b>39</b>	<b>2</b>
AGL Electricity Limited	82 064 651 083					1	
AGL HP1 Pty Ltd, AGL HP2 Pty Ltd, AGL HP3 Pty Ltd trading as AGL Hydro Partnership	86 076 691 481	1	1		1	1	
AGL Sales Pty Ltd	88 090 538 337					1	
AGL South Australia Pty Ltd	49 091 105 092					1	
Alinta Sales Pty Ltd	92 089 531 984	1					
Aurora Energy Pty Ltd	85 082 464 622					1	
Bell Bay Power Pty Ltd	52 097 079 331	1					
Braemar Power Project Pty Ltd	54 113 386 600	1				1	
Callide Power Trading Pty Ltd	80 082 468 719	1					
Canunda Power Pty Ltd	31 103 087 341				1		
Cathedral Rocks Wind Farm Pty Ltd	87 107 113 708		1				
CitiPower Pty	76 064 651 056					1	
CKI Utilities Development Limited, HEI Utilities Development Limited, CKI Utilities Holdings Limited, HEI Utilities Holdings Limited and CKI/HEI Utilities Distribution Limited trading as ETSA Utilities	13 332 330 749					1	
Country Energy	37 428 185 226		1		1	1	1
CS Energy Limited	54 078 848 745	1				1	
CSR Limited	000 001 276				1		
Cummins Engine Company Pty Ltd	42 006 332 949		1				
Delta Electricity	67 139 819 642	1				1	
Diamond Energy Pty Ltd	97 107 516 334		1				
EA – IPR Retail Partnership	67 269 241 237					1	
Ecogen Energy Pty Ltd	86 086 589 611	1					
EDL Group Operations Pty Ltd	39 055 555 416				1		
Energy Brix Australia Corporation Pty Ltd	79 074 736 833	1	1			1	

Energy One Pty Ltd	37 076 583 018					1	
Energy Pacific (Victoria) Pty Ltd	18 063 543 984		1		1		
EnergyAustralia	67 505 337 385		1			1	1
Eraring Energy	31 357 688 069	1	1			1	
Ergon Energy Queensland Pty Ltd	11 121 177 802					1	
Green Pacific Energy Stapylton No.1 Pty Limited	48 000 432 477		1				
Hydro-Electric Corporation	48 072 377 158	1	1				
Independent Electricity Retail Solutions Pty Ltd	47 107 316 423					1	
Infratil Energy Australia Pty Ltd	87 115 291 042	1					
Integral Energy Australia	59 253 130 878					1	
IPM Australia Limited	87 055 563 785	1					
Jackgreen (International) Pty Ltd	14 097 708 104					1	
Loy Yang Marketing Management Company Pty Ltd	19 105 758 316	1					
Macquarie Generation	18 402 904 344	1				1	
Marubeni Australia Power Services Pty Ltd (was Sithe Australia Power Services Pty Ltd)	064 462 111			1			
Meridian Energy Australia Pty Ltd	056 452 601				1		
Momentum Energy Pty Ltd	42 100 569 159					1	
Narrabri Power Limited	42 104 570 943				1		
National Power Australia Investments Ltd, Hazelwood Pacific Pty Ltd, Australian Power Partners BV, CISL (Hazelwood) Pty Ltd, Hazelwood Investment Company Pty Ltd trading as Hazelwood Power	40 924 759 557	1					
NRG Flinders Operating Services Pty Ltd	36 094 130 837	1				1	
Origin Energy Electricity Limited	33 071 052 287	1				1	
Our Neighbourhood Energy Pty Ltd	97 109 118 578					1	
Pacific Hydro Chalice Hills Pty Ltd	88 101 989 744				1		
Pelican Point Power Limited	11 086 411 814	1					
Pioneer Sugar Mills Pty Ltd	63 009 889 856				1		
Power Direct Australia Pty Ltd	66 078 875 902		1			1	
Power Direct Utility Services Pty Ltd	80 104 759 471		1		1		
Powerdirect Pty Ltd	28 067 609 803					1	
Queensland Power Trading Corporation trading as Enertrade	39 262 390 374	1				1	
Red Energy Pty Ltd	107 479 372					1	
Redbank Project Pty Ltd	34 075 222 561	1					
Rocky Point Power Project Pty Ltd	21 117 462 889		1				
Snowy Hydro Limited	17 090 574 431	1					
South Australia Electricity Pty Limited	61 114 356 697					1	
Stanwell Corporation Ltd	37 078 848 674	1	1			1	
State Electricity Commission of Victoria	58 155 836 293	1				1	
Sun Metals Corporation Pty Ltd	97 074 241 982					1	
Sun Retail Pty Ltd	97 078 848 549					1	

Synergen Power Pty Ltd	66 092 560 819	1					
Tarong Energy Corporation Ltd	52 078 848 736	1	1		1	1	
Tomago Aluminium Company Pty Ltd	68 001 862 228					1	
TRUenergy Pty Ltd	086 014 968					1	
TRUenergy SA Generation Pty Ltd	081 074 204	1					
TRUenergy Yallourn Pty Ltd	065 325 224	1	1			1	
Valley Power Pty Ltd	16 083 964 470	1					
Victoria Electricity Pty Ltd	69 100 528 327					1	

<b>TRANSMISSION NETWORK SERVICE PROVIDERS</b>	<b>ABN / ACN</b>
Electranet Pty Ltd	41 094 482 416
Queensland Electricity Transmission Corporation Ltd (Powerlink Queensland)	82 078 849 233
Transend Networks Pty Ltd	57 082 586 892
TransGrid	19 622 755 774
Victorian Energy Networks Corporation (VENCorp)	61 560 346 381