

NATIONAL ELECTRICITY LAW

Section 74

Infringement Notice – Braemar Power Station generating Unit 3

To: Braemar Power Project Pty Ltd (ACN 116 665 608)
The Chifley Tower
Level 23
2 Chifley Square
Sydney NSW 2000

1. The Australian Energy Regulator ('AER') has reason to believe that Braemar Power Project Pty Ltd ('BPP'), a Registered Participant within the meaning of the *National Electricity Rules* ('NER'), in respect of the Braemar Power Station ('Braemar'), has breached clause 4.9.8(a) of the NER in respect of Unit 3 on 4 November 2007 for the reasons set out in Schedule 1 to this Infringement Notice ('the alleged breach').
2. The alleged breach comprises a breach of a civil penalty provision within the meaning of the *National Electricity Law* ('NEL').
3. The infringement penalty for the alleged breach is \$20,000.
4. Pursuant to s.74 of the NEL, the AER resolved to serve this Infringement Notice on BPP.

PAYMENT OF THE INFRINGEMENT PENALTY

5. BPP may pay the infringement penalty under this Infringement Notice by cheque or electronic funds transfer in accordance with the details set out in the invoice annexed to this Infringement Notice.
6. Notwithstanding anything set out in the invoice annexed to this Infringement Notice, the infringement penalty must be paid within 28 days of the date this Infringement Notice is served on BPP ('the payment period') unless this Infringement Notice is withdrawn before the end of the payment period in accordance with s.79 of the NEL.

OTHER MATTERS

7. The AER will not commence proceedings in respect of the alleged breach if the infringement penalty is paid before the end of the payment period.
8. BPP is entitled to disregard this Infringement Notice and defend any proceedings in respect of the alleged breach.

DATE OF NOTICE:

5th November 2008


Steve Edwell Chairman AER

INFRINGEMENT NOTICE – BRAEMAR POWER PROJECT PTY LTD

SCHEDULE 1 MATTERS CONSTITUTING A BREACH OF A RELEVANT CIVIL PENALTY PROVISION

1. BPP is a Registered Participant and a Scheduled Generator within the meaning of those terms in the NER in respect of Braemar and specifically in respect of Unit 3 at Braemar.
2. Clause 4.9.8(a) of the NER requires a registered participant to comply with dispatch instructions issued to it by NEMMCO unless to do so would, in the Registered Participant's reasonable opinion, be a hazard to public safety or materially risk damaging equipment.
3. The dispatch instructions given to Braemar Unit 3 by NEMMCO and the output for the dispatch intervals ending 5.40am, 5.50am and 6.20am to 6.40am on 4 November 2007 in respect of Unit 3 are set out below in columns 2 and 3 respectively. Unit 3's output for these dispatch intervals did not comply with the dispatch instructions given to it by NEMMCO. In response to the notice issued by the AER under s.28 of the NEL, BPP provided reasons for its non-compliance, a summary of which is set out in column 4 below.

Column 1	Column 2	Column 3	Column 4
Dispatch interval	Dispatch instruction (MW)	Output of Unit 3 (MW)	BPP's reasons given in response to the s.28 notice
5.40am	120.96	149.2	The Unit was not in AGC. Therefore, the employee in control of the Unit would have been required to give instructions to the Unit in order to reduce its output. This did not occur.
5.50am	119.2	149.2	The Unit was not in AGC.
6.20am ¹	100.07	92.8	The Unit was in 'protection mode' which entailed that it had switched out of AGC and remained at a minimum load until the output of the Unit was manually adjusted or the Unit was placed back into AGC.
6.25am	99.47	92.6	The Unit was in 'protection mode' which entailed that it had switched out of AGC and remained at a minimum load until the output of the Unit was manually adjusted or the Unit was placed back into AGC.
6.30am	99.27	92.6	The Unit was in 'protection mode' which entailed that it had switched out of AGC and remained at a minimum load until the output of the Unit was

¹ Unit 3 was switched out of AGC prior to the 6.05am dispatch interval.

			manually adjusted or the Unit was placed back into AGC.
6.35am	99.27	93	The Unit was in 'protection mode' which entailed that it had switched out of AGC and remained at a minimum load until the output of the Unit was manually adjusted or the Unit was placed back into AGC.
6.40am	99.67	93	The Unit was in 'protection mode' which entailed that it had switched out of AGC and remained at a minimum load until the output of the Unit was manually adjusted or the Unit was placed back into AGC.

4. The reasons given by BPP in response to the notice issued by the AER under s.28 of the NEL in relation to its non-compliance with the relevant dispatch instructions did not indicate that complying with the relevant dispatch instructions in these dispatch intervals would give rise to a hazard to public safety or materially risk damaging equipment. The relevant dispatch targets issued by NEMMCO were higher than the level that BPP alleges would cause the AGC system to switch into 'protection mode' to avoid such a hazard or risk (namely, 92 MW minimum load).
5. Accordingly, for the dispatch intervals ending 5.40am, 5.50am and 6.20am to 6.40am on 4 November 2007 BPP breached clause 4.9.8(a) of the NER by failing to comply with the dispatch instructions given to it by NEMMCO.