

Managing Director
National Electricity Code Administrator Limited
Level 5
41 Currie St
Adelaide, SA, 5000

15 September 1999

Facsimile – 08-8213-6300

Dear Sir,

Re: Dispute Relating to Loss Factors

On 15 September 1999, a Dispute Resolution Panel (the Panel) constituted under clause 8.2.6 of the National Electricity Code (the Code) gave its determination following a binding evaluation of a dispute relating to the determination of the appropriate loss factor under clause 3.6.3(e) of the Code.

In summary the Panel concluded that the determination was erroneous in that:

- (a) there had been a failure to take account of the margins of error and uncertainties involved in the bidding process with the consequence that an erroneous conclusion had been reached that the calculation of a loss factor under clause 3.6.3(d) would significantly impact on the central dispatch of generation; and
- (b) the discretion under clause 3.6.3(e) had miscarried for the reason that there had been no consideration of factors relating particularly to the generators in question. The Panel considered that in the exercise of the discretion it was necessary to have regard to factors specific to the generators including any inequity arising from a decision on clause 3.6.3(e) in the allocation of the settlements residue and the physical features of the generators in question such as their size, type, physical location, position of the connection point in the network and their proposed operating regime.

The Panel also made the following non-binding recommendations:

1. pending the outcome of the National Electricity Code Administrator Limited (NECA) review of distribution loss factors under clause 3.6.3(h), National Electricity Market Management Company Limited (NEMMCO) should defer making any new determination under clause 3.6.3(e) in relation to the generator that was the subject of the dispute such that the existing distribution loss factor under clause 3.6.3(d) (DLF) will continue to apply at least until 1 July 2000 or until Code changes resulting from the NECA review are authorised by the Australian Competition and Consumer Commission (ACCC), whichever is earlier;
2. NEMMCO should ensure that the application of marginal loss factors to all embedded generators regardless of type is duly considered in the upcoming NECA review under clause 3.6.3(h).

In this regard, the Panel is convinced that, consistent with the Code and market objectives and the need to provide for a workable set of rules which can be administered equitably and in a timely fashion, clause 3.6.3 should, amongst other things:


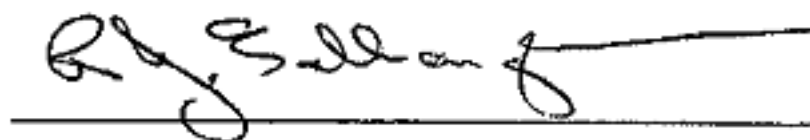
- (a) apply as the standard approach, a distribution marginal loss factor (DMLF) to all market and scheduled generators and scheduled loads embedded in distribution networks;
- (b) provide NEMMCO with discretionary powers to adjust the method of calculation of the DMLF if, in its opinion, the application of the standard method of calculation would unduly favour or discriminate against a participant to whom it applied relative to other participants in the market taking into account both short-term and long-term effects;
- (c) provide for the application of different DMLFs for different time sectors to ensure the loss of economic efficiency caused by the approximations inherent in the application of the DMLFs is kept within reasonable bounds;
- (d) apply a volume weighting approach to averaging of DMLFs where this is required in the calculation process; and
- (e) provide registered participants with access to all the data necessary to be able to validate the calculation of any DMLF which applies to one of their connection points. If this is not achievable for reasons of commercial confidentiality, provide for both the relevant data and the calculations to be subject to independent audit and the relevant parties duly notified.

3. in parallel with the NECA review, the parties should work together to achieve an equitable set of Code provisions for allocation of the settlements surplus generated on distribution networks as a result of the application of marginal loss factors to embedded generators and scheduled loads;
4. NEMMCO should henceforth ensure that any prospective new embedded generator planning to enter the market is appropriately informed about this issue and the processes contemplated to find an enduring solution; and
5. a summary of these recommendations should be provided to all market participants, the participating jurisdictions, and the ACCC as well as NECA.

The Panel urges NECA to co-operate in acting on these recommendations.

Yours faithfully

The Hon M. J. Clarke QC


Mr R. J. Gaffaugh

Dr D. J. Carland

