

Contact Officer: Paul Dunn
Contact Phone: 03 9290 1426

13 October 2011

Mary Jordan
Hill Michael Associates Consulting Pty Ltd
GPO Box 3195
Brisbane QLD 4000

Dear Ms Jordan

Full Exemption – Xstrata Coal NSW Pty Ltd

Thank you for your correspondence requesting exemption for Xstrata Coal NSW Pty Ltd from the requirement to register as a network service provider and the operation of Chapter 5 of the National Electricity Rules.

On 13 October 2011, the Australian Energy Regulator granted the requested exemption, subject to conditions, to the listed party, under clause 2.5.1 of the National Electricity Rules. Please note the exemption is personal to the applicant and does not apply to any other person that owns, controls or operates the network at the time of the decision or in the future. The decision is set out at Attachment A to this letter.

Should you have any queries in relation to this letter, please contact Mr Paul Dunn on (03) 9290 1426.

Yours sincerely



Chris Pattas
General Manager
Network Operations and Development

NETWORK SERVICE PROVIDER EXEMPTION

Xstrata Coal NSW Pty Ltd (ABN 18 097 523 058)

NOTICE OF DECISION TO GRANT EXEMPTION

I, Michelle Groves, in accordance with a delegation made by the Australian Energy Regulator (AER), on 3 March 2006, decided pursuant to:

- (a) section 6 of the *National Electricity (New South Wales) Act 1997* (NSW);
- (b) section 13 of the National Electricity (NSW) Law (NEL); and
- (c) clause 2.5.1 of the National Electricity Rules (NER),

to grant Xstrata Coal NSW Pty Ltd (Applicant) an exemption (Exemption) from:

- (d) the requirement to register as a Network Service Provider (NSP); and
- (e) the operation of Chapter 5 of the NER,

subject to the conditions set out in this notice.

Specified distribution system

1. The Exemption is limited to the network specified in the Applicant's submission made to the AER dated September 2011 (see [D11/2316082](#)).

Note: The Exemption applies to the Tahmoor Network Services which consists of the Tahmoor mine 66/11kV substation and the 11kV network that connects the Tahmoor Power Generator.

Licence

2. The Applicant must comply with any law of the State of New South Wales requiring the Applicant to be authorised to own, operate and/or control the network.

Note: The AER understands that the Applicant does not require a licence as a retailer and distributor of electricity as the network will be used for the purposes of supporting the operations of the Tahmoor mine

Maintenance and technical standards

3. The Applicant must maintain the network at least to the standards specified in any legislation applicable to the applicant or the specified transmission system.

Note 1: Relevant legislation under this section includes, but is not limited to, the National Electricity (New South Wales) Law, the National Electricity Rules, the Electricity Supply Act 1995 (NSW) and the Electricity (Consumer Safety) Act 2004 (NSW).

Note 2: For the avoidance of doubt, conditions 9(b) and 9(c) apply to the interpretation of condition 3.

Connection

4. (a) The Applicant must promptly (and, in any event, within one month) notify the AER if a third party seeks access to its network.
- (b) The Applicant shall allow access to their network on reasonable commercial terms to be negotiated with any party seeking access.
- (c) Condition 4(a) does not apply where the person is:
 - (i) a related body corporate (as defined in Chapter 10 of the NER); or
 - (ii) a commercial entity whose principal business is the provision of services to the Applicant.

Commencement and expiry

5. The Exemption takes effect on and from 13 October 2011.
6. If the Applicant becomes aware that any condition of this Exemption is not satisfied, the Applicant must promptly (and, in any event, within one month) notify the AER.
7. The Exemption terminates on the date that:
 - (a) the Applicant is dissolved;
 - (b) the Applicant fails to satisfy condition 2 and/or 3;
 - (c) the AER decides to repeal the Exemption in accordance with condition 8.
8. The AER may decide to amend or repeal the Exemption. The decision to repeal the Exemption is exercisable in the same way, and subject to the same conditions, as the decision to grant the Exemption.

Note: For example, the AER may decide to repeal the Exemption in the event that condition 2, 3 or 6 to the Exemption is not satisfied, or if there is a material change to the persons connected to the network.

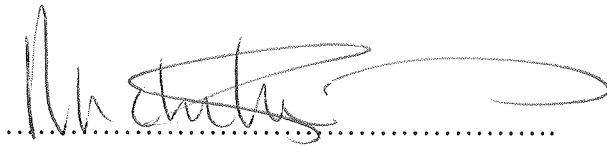
Interpretation

9. In this Exemption, unless the contrary intention appears, a reference to:
 - (a) a statute, regulation, rule or other law includes regulations and other instruments made under it and consolidations, amendments, re-enactments or replacements of any of them;

ATTACHMENT A

- (b) an agreement or a provision of an agreement includes an amendment or supplement to, or replacement or novation of, that agreement or that Provision of that agreement;
- (c) except in relation to references to the Applicant, a particular person includes a reference to the person's successors, substitutes (including persons taking by novation) and assigns.

Note: The Exemption is personal to the Applicant, and does not apply to any other person that owns, controls or operates the network at the time of the decision or in the future.

A handwritten signature in black ink, appearing to read 'Michelle Groves', is written over a horizontal dotted line.

Dated: 13 October 2011

Michelle Groves
Delegate of the Australian Energy Regulator