AEMC

AUSTRALIAN ENERGY MARKET COMMISSION

DETERMINATION

Final report

Delta compensation claim for opportunity costs

Sunset Power International Pty Ltd (trading as Delta Electricity)

16 May 2024

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The AEMC reports to the energy ministers. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the energy ministers.

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Executive Summary

1 Clause 3.14.6 of the National Electricity Rules (NER) and the Australian Energy Market Commission (AEMC or the Commission) compensation guidelines (guidelines) set out a process for market participants to claim compensation for certain losses during an administered price period (APP) where the administered price cap (APC) or administered floor price is applied. The administered pricing compensation framework is designed to protect participants such as generators, scheduled network service providers, scheduled loads, ancillary service providers, and demand response service providers from losses during a price limit event to maintain the incentive for them to continue to supply (or consume) energy or services (as the case may be). In this way, administered pricing compensation supports a reliable supply of electricity to customers during price limit events.

2 Sunset Power International Pty Ltd, trading as Delta Electricity (Delta) has claimed compensation for opportunity costs in respect of its Vales Point 5 (VP5) and Vales Point 6 (VP6) generation units following the application of the APC in Queensland (Qld) and New South Wales (NSW) between 12 June 2022 and 23 June 2022.

3 Delta has claimed a total amount of [redacted] in opportunity costs compensation.

4 Delta has claimed that both a technical and a commercial limitation applied

5 Opportunity costs can be claimed where it is demonstrated that the claimant's plant has scarce capacity or resources as a result of a relevant commercial or technical limitation that applied over the relevant period. Opportunity cost means the value of the best alternative opportunity for an eligible participant to use that scarce capacity or resources more profitably during the application of a price limit event or at a later point in time.[1]

6 Delta has claimed that, as a result of generating above its preferred level during the APP, it forwent the opportunity to use its scarce resources more profitably in July 2022, after the APP. It has claimed that it experienced both technical and commercial limitations during and following the APP which demonstrate that its available resources were scarce. It has claimed:

- a technical limitation at the time of the APP in June 2022 in its available coal, as the coal stockpile was at a critically low level with only approximately five days of coal remaining
- a technical limitation in July 2022, after the APP, where it had limited coal available
- the technical limitation and the price limit event created a commercial limitation, as Delta consumed its scarce coal and produced energy during a period of capped prices, where it would have instead preferred to produce that energy after the price cap was lifted when prices were higher.

7 Delta is not eligible for opportunity costs compensation

8 In accordance with the NER and guidelines, the Commission seeks to answer two fundamental questions in assessing eligibility for opportunity costs compensation:

1. Has the claimant demonstrated that it had scarce capacity or resources as a result of a relevant (technical or commercial) limitation?[2] If no, the claimant does not demonstrate a limitation and is unable to claim compensation.

1 Section 5.3.1. of the guidelines.

2 Sections 5.3.2-5.3.3, AEMC, Compensation guidelines, Final guidelines, 21 October 2021.

2. If yes, has the claimant suffered the foreclosure of an alternative opportunity to use that scarce capacity or resource more profitably at the same point in time or at a later point in time,[3] as a result of the imposition of the price cap?[4]

9 With regard to the first question, in considering the evidence and submissions provided by Delta:

- The evidence available does not indicate that Delta experienced a technical limitation:
  - Delta had sufficient coal available to meet its generation needs during and after the APP, where it claims its forgone opportunity lies
  - Delta's coal stockpile grew during the APP in June, and in July where it claims its forgone opportunity lies.
- Delta has not demonstrated the existence of a commercial limitation during or following the APP.
- As a result, the Commission has decided that Delta has not demonstrated the existence of a relevant limitation and the answer to the first question is therefore no.

10 This finding means that Delta is not eligible for opportunity costs compensation. Nonetheless, we have considered the second question as follows:

- The Commission accepts that, as Delta has argued, it may have reduced its average daily generation during and following the APP because of its concerns about its coal levels.
- In addition, we accept that Delta may have chosen to conserve resources during the APP due to the imposition of the price cap. It may make sense for a participant to conserve resources when prices are relatively low so that those resources can be deployed more profitably at a later time when prices are higher.
- However, Delta has provided inconsistent explanations of the reasons for which it chose to lower its generation during and following the APP. Given the evidence provided by Delta, the Commission is unable to conclude that Delta suffered the foreclosure of an alternative opportunity to use its scarce capacity or resource more profitably at the same point in time or at a later point in time, as a result of the imposition of the price cap, and the answer to the second question is therefore 'no'.

11 The Commission is not satisfied that Delta has demonstrated that it is eligible for compensation under the relevant provisions of the NER and the guidelines. The Commission has determined that Delta should not be paid any administered pricing compensation in respect of its claim.

12 In light of this decision, we have not made a determination as to the specific amount of compensation that would be awarded to Delta had it demonstrated eligibility.

13 We considered stakeholder input in making our decision

14 In September 2023 the Commission published the draft opportunity cost methodology (DOCM), which outlined Delta's proposed methodology for determining its opportunity costs and the alternative methodology the Commission proposed to use.

15 The Commission received submissions on the DOCM pertaining to Delta's opportunity cost claim, from the Energy Users Association of Australia (EUAA), Australian Energy Council (AEC) and Delta.

- The EUAA supported the Commission's position on Delta's claimed limitation and the methodology proposed by the Commission to determine Delta's opportunity costs.

3 Section 5.3.1, AEMC, Compensation guidelines, Final guidelines, 21 October 2021.

4 Clause 3.14.6(a) of the NER.

- The AEC did not comment on the specifics of Delta's claim or the Commission's draft methodology, but emphasised the importance of market participants having confidence in the integrity of the compensation arrangements so that the arrangements continue to maintain the incentive to participate in the market during future price limit events.
- Delta's submission disagreed with the reservations expressed by the Commission on Delta's claimed limitations, and provided further information and rationale on its coal procurement endeavours and contract positions before, during and following the APP. Delta agreed with the Commission's proposed approach to valuing its forgone opportunity.

16 On 13 December 2023, the Commission provided a draft decision to Delta for the purposes of consultation under clause 3.14.6(r) of the NER. The draft decision outlined the Commission's assessment of Delta's opportunity cost claim.

17 The Commission has taken all stakeholder submissions into account, including Delta's response to the draft decision, in making this final decision.

Contents

1 Overview of Delta's claim

1.1 Delta's opportunity cost claim

On 21 June 2022, Delta provided notification of its intent to claim compensation in relation to the administered price period in Queensland and NSW between 12 June 2022 and 23 June 2022. For the purposes of this claim, this is the APP to which the claim relates. This notification was received within the prescribed time frame in the NER.[5]

Delta is claiming compensation for its VP5 and VP6 coal power generating units located at its Vales Point coal power station in NSW. Delta is registered by AEMO as a generator under the NER and VP5 and VP6 are classified as scheduled generating units under Chapter 2 of the NER.

Delta is claiming opportunity costs in operating its Vales Point coal power station during the period commencing 6:55pm on 12 June 2022 and ceasing at 4:00am on 23 June 2022. Each trading day (or part of a trading day) within this period up to the end of the 15 June 2022 trading day (4:00am on 16 June 2022) is potentially a separate eligibility period.[6] For reasons that are not necessary to set out in this document due to the Commission's decision, there are no eligibility periods between 4:00am on 16 June 2022 and 4:00am on 23 June 2022.

Delta is not claiming direct costs in operating VP5 or VP6 as part of this claim.

The Commission commenced formal assessment of Delta's compensation claim on 8 June 2023. Details about the compensation process are set out in appendix A. A timetable for determining Delta's compensation claim is set out in appendix C.

1.1.1 Delta claims a technical and commercial limitation

Delta's Vales Point power station is a vertically integrated coal generator. Delta's parent company owns the nearby Chain Valley colliery which supplies coal for generation at Vales Point. Delta also sources coal from other sources, some of which are delivered by rail. Delta claims that its coal stockpile at the Vales Point power station fell to critically low levels during the APP and in July 2022, following the APP. Delta claims that it:

- experienced geological issues at its neighbouring Chain Valley colliery, hindering the replenishment of its coal stockpile
- experienced procurement issues arising from some additional coal suppliers under-delivering on contracts
- responded to AEMO's requests (not formal directions) to continue to generate during the APP at a level higher than Delta's preferred generation.

Delta claims:

- A technical limitation at the time of the APP in June 2022 in its available coal, as the coal stockpile was at a critically low level with only approximately five days of coal left in the stockpile.
- A technical limitation in July 2022, after the APP, where it reduced its average daily generation output due to limited coal (again, approximately five-days' generation) being available.
- The price limit event and technical limitation then created a commercial limitation, as Delta consumed its scarce coal and produced energy during a period of capped prices, where it

5 Clause 3.14.6(i) of the NER.

6 Clause 3.14.6(a) of the NER.

would have instead preferred to produce that energy after the price cap was lifted when prices were higher.

1.1.2 Delta's valuation of its claimed opportunity costs

Delta's proposed valuation methodology for determining its claimed opportunity costs is a market-based valuation of its claimed forgone opportunity. The value of the forgone opportunity comprises the quantum of energy claimed and the price attributed to this energy.

Delta's claimed quantum of energy

Delta's claim calculates the quantum of energy it produced above its preferred amount during the APP. It does this by outlining its *preferred APP generation* during the APP and calculating the difference against its *actual APP generation,* which is its actual generation during the APP. The *preferred APP generation* is based on operation at or above the plant's technical minimum generation, which Delta argues was its preferred response during the relevant period.

The difference between Delta's *preferred APP generation* during the APP and its *actual APP generation* is termed its *compensation energy* in Delta's claim.

Delta's claimed optimised post-APP generation profile

Delta then articulates it would have pursued an *optimised post-APP generation profile* in the periods following the APP, but for the application of the APC. This *optimised post-APP generation profile* comprises Delta's actual post-APP generation behaviour, adjusted to reflect how it claims it would have behaved but for the APP. In aggregate, it equates to the same quantum of energy as its *compensation energy,* plus the generation it supplied to the NEM in the post-APP period.

The prices at which Delta values its *compensation energy*

Delta proposes to value its *compensation energy* by estimating the prices it would have received for this energy had it pursued its *optimised post-APP generation profile*. These prices are based on those at which Delta was dispatched in the post-APP period in which it claims its forgone opportunity lies.

Note, the above discussion of Delta's valuation methodology does not include the deduction of any actual or potential revenue earned or any actual or potential costs of generating the value (which would need to be considered in assessing any final compensation payable, if Delta were eligible to claim compensation).

1.2 Information provided by Delta and AEMO

Delta provided information to the AEMC in accordance with the requirements of the guidelines on 6 December 2022.

The Commission verified certain information provided by Delta with AEMO and received verification of the spot price and generation revenue earned by Delta during the period. Following this, two information requests were issued to Delta:

- On 6 February 2023, the AEMC requested additional information to support Delta's claim. Delta provided a response to this request on 16 February 2023.
- On 11 July 2023, further information was sought from Delta regarding its minimum coal stockpile level, coal procurement endeavours, and communications with AEMO during the APP. Delta responded to the information request on 25 July 2023.

Delta also provided further information in its submission to the DOCM on its coal procurement and contract positions during the APP to substantiate its claimed technical and commercial limitations. This includes further commentary and information on Delta's:

- coal procurement endeavours before, during and following the APP, including additional evidence of the challenges it faced accessing coal over this period, to further substantiate its claimed technical limitation.
- contract activity during the APP, to further substantiate its claimed commercial limitation.

Delta also provided a submission in response to the AEMC's draft decision.

The Commission notes Delta provided much of this additional information in confidence to assist the Commission's decision-making process. Therefore, only a portion of the additional information provided has been made public. Where required in this document, the Commission has discussed this additional information in a general form to not breach confidentiality requirements imposed by Delta.

1.3 Confidentiality

Delta made a claim for confidentiality in respect of some elements of its claim, including but not limited to its:

- coal stockpile levels
- PASA submissions
- financial reporting information on spot market purchases
- generation information.

The discussion of Delta's claim in this document is partly constrained to protect Delta's confidential information.

As set out in the guidelines, when performing its functions under clause 3.14.6 of the NER, the AEMC is required to take all reasonable measures to protect from unauthorised use or disclosure information given to it in confidence.[7]

7 Section 24 of the Australian Energy Market Commission Establishment Act 2004; Section 31 of the National Electricity Law.

2 The Commission's assessment of Delta's claim

In assessing Delta's claim for compensation, the Commission has had regard to:

- its functions and the administered pricing compensation process under clause 3.14.6 of the NER
- the guidelines[8]
- its powers under the National Electricity Law
- information and documents provided by Delta to support its claim, including any further information and documents provided in consultation with Delta pursuant to clause 3.14.6(m) of the NER
- submissions received on the draft opportunity cost methodology for Delta's claim
- information provided by AEMO in accordance with the guidelines
- Delta's response to the draft decision.

2.1 Application of the guidelines

In making this decision, the Commission is required to apply the guidelines unless it is satisfied that there are compelling reasons not to do so.[9] Delta has not identified any compelling reasons for the Commission to depart from the guidelines in assessing its claim. Further, the Commission has not identified any reasons to depart from the guidelines in assessing the claim.

2.2 Eligibility

In the following sub-sections, the Commission seeks to answer the following questions regarding Delta's eligibility to claim compensation, including:

- Has the claimant demonstrated that it is an eligible party?[10]
- Has the claimant demonstrated that it had scarce capacity or resources as a result of a relevant limitation?[11]
- If yes, has the claimant suffered the foreclosure of an alternative opportunity to use that scarce capacity or resource more profitably at the same point in time or at a later point in time,[12] due to the imposition of the price cap?[13]

2.2.1 Delta is a party eligible to apply for compensation

Delta meets the eligibility criteria set out in the NER in regard to making a claim for administered pricing compensation (subject to the requirement that it has incurred total costs during each eligibility period that exceed the total revenue it received from the spot market during that period).[14]

8 AEMC, *Compensation guidelines, Final guidelines*, 21 October 2021. https://www.aemc.gov.au/sites/default/files/documents/final_amended_compensation_guidelines.pdf

9 Clause 3.14.6(n) of the NER.

10 Section 2, AEMC, Compensation guidelines, Final guidelines, 21 October 2021.

11 Sections 5.3.2 and 5.3.3, AEMC, Compensation guidelines, Final guidelines, 21 October 2021.

12 Section 5.3.1, AEMC, Compensation guidelines, Final guidelines, 21 October 2021.

13 Clause 3.14.6(b) of the NER.

14 Clause 3.14.6(b) of the NER.

Delta is registered by AEMO as a generator under the NER and VP5 and VP6 are classified as scheduled generating units under Chapter 2 of the NER, making Delta a party eligible to apply for compensation.[15]

2.2.2 The Commission finds that Delta has not demonstrated a technical limitation

Delta's coal stockpile grew during and following the APP

The Commission accepts Delta's evidence submitted in response to the DOCM that highlights its coal deliveries were not fulfilled by one of Delta's contracted coal suppliers on four days from 11 June to 14 June. Delta notes this was due to prevailing weather conditions which restricted trains into Vales Point power station.

The Commission also notes evidence of more widespread challenges in procuring coal during the APP, which extended to other coal-fired generators in NSW. AEMO's *NEM market suspension and operational challenges in June 2022* report highlights the challenges faced by thermal plants in procuring coal during the APP.[16]The report noted:

- Origin and Energy Australia claimed that leading up to 10 June 2022, they experienced difficulties sourcing sufficient volumes of coal to generate at desired output levels, due to under-deliveries from key suppliers.[17]
- "Reduced coal production at local mines and reduced deliveries from remote mines meant that a number of major power stations in New South Wales experienced very low coal stocks… "[18]

The evidence provided by Delta on its coal stockpile levels demonstrates, however, that Delta's coal stockpile grew during the APP and after the APP, as illustrated in the below figure.

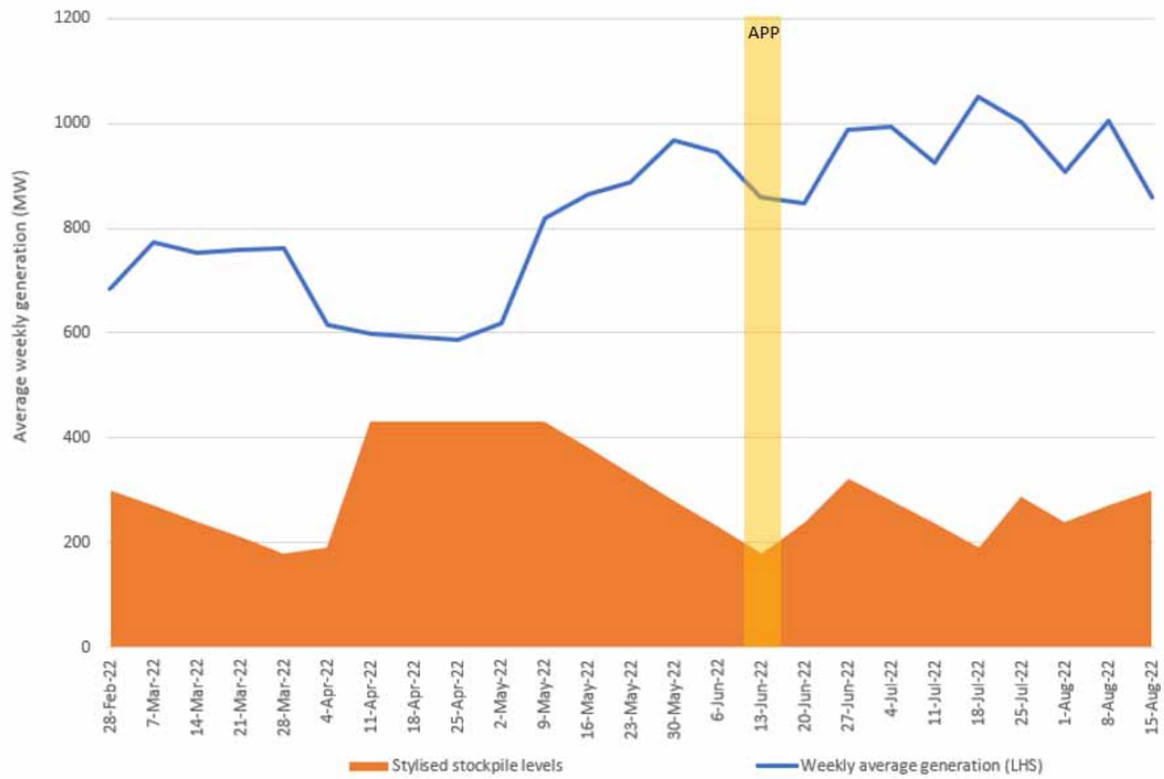
15 Part 2, AEMC, Compensation guidelines, Final guidelines, 21 October 2021.

16 AEMO, August 2022. https://www.aemo.com.au/-/media/files/electricity/nem/market_notices_and_events/market_event_reports/2022/nem-market-suspension-and-operational-challenges-in-june-2022.pdf

17 AEMO, 2022,p.11, referenced from: Origin 2022, Update on operating conditions and guidance, at https://www.originenergy.com.au/about/investors-media/update-on-operatingconditions-and-guidance; EnergyAustralia 2022, Media update, at https://www.energyaustralia.com.au/about-us/media/news/media-update-18-june-2022

18 AEMO, 2022. https://www.aemo.com.au/-/media/files/electricity/nem/market_notices_and_events/market_event_reports/2022/nem-market-suspension-and-operational-challenges-in-june-2022.pdf. p. 24.

Figure 2.1: Delta's coal stockpile levels and average weekly generation in 2022



Source: AEMC 2024, based on information provided by Delta

Note: The stockpile levels represented in this figure are not to scale and are for illustrative purposes only. The average weekly generation data are based on Delta's actual generation and are therefore not stylised.

Delta's generation behaviour was influenced by its belief that it was or could soon be technically limited

The Commission accepts Delta's position, as outlined in its submissions, that it reduced its average daily generation during the APP and in July 2022 due to its perceived coal limitation. We accept that Delta operated in a way such that it believed it was technically limited during the APP, or could be soon technically limited in July 2022, following the APP.

Delta made limited attempts to restore its coal stockpile during and following the APP

Delta submits that it brought forward coal deliveries due in July and August 2022 to June 2022, to ensure there was sufficient coal available during the APP to meet AEMO's requests for more energy production from Vales Point. Delta argues that this meant that deliveries previously scheduled for July 2022 were not made, and its stockpile level in July was therefore lower than planned. Delta argues that:

- this resulted in a technical limitation in July 2022
- the impact of this limitation was the foreclosure of the opportunity to generate more profitably in July 2022.

Despite these arguments, Delta provided limited evidence of attempts to restore the stockpile following the APP:

- despite demonstrating that it could potentially bring forward deliveries of coal as it did in June 2022, and that it had a policy to purchase spot market coal when needed, Delta has not evidenced that it attempted to restore the stockpile following the APP by either bringing forward additional deliveries or purchasing spot market coal

- Delta purchased less coal than was made available to it through a procurement it conducted in late June 2022.

Stakeholder feedback supports our position

The EUAA supported the Commission's reservations regarding Delta's claimed limitations in the DOCM, noting "Delta provided insufficient evidence that a technical or commercial limitation was occurring during the market intervention".[19]

Delta argued in its submission that the Commission's view is that Delta would only be subject to a technical limitation if there was no coal left (i.e. a stockpile of zero). It is not, and has never been, the Commission's position that Delta needs to demonstrate that it had no coal at all to substantiate a technical limitation.

2.2.3 The Commission finds that Delta has not demonstrated a commercial limitation

To demonstrate a commercial limitation, Delta would need to demonstrate, for example, that it incurred penalties or commercial disincentives on its available capacity or resources during or following the APP.[20]

Delta's purchases of energy on the spot market do not constitute evidence of a commercial limitation

Delta provided evidence that due to its perceived coal scarcity, it accessed the spot market to procure energy to meet its contract positions during the APP. Delta highlighted that this is a costly way for a coal generator to purchase energy and that it would only be considered in the event Delta was unable to meet its contract positions. Delta also provided the Commission with evidence of these spot market purchases.

The Commission accepts Delta's claim that the prices experienced during the APP were high prices for a coal generator to purchase energy, and this would likely be done to meet its contract positions.

However, as discussed above in the context of Delta's claimed technical limitation, the Commission is not satisfied that Delta exhausted all potential avenues to relieve its coal constraint, and therefore the Commission does not find that Delta's purchases of additional energy on the spot market demonstrate a commercial limitation.

Delta's claimed minimum stockpile target does not appear to be binding

In its original claim, Delta stated that if its coal stockpile decreased below a set minimum target, then it would operate as resource-constrained and would conserve its generation. Delta claims this target has been established based on covenants with its financier, but has not provided evidence to substantiate this claim. Further, Delta submitted to the Commission that it does not have an internal policy that outlines a coal stockpile minimum that it must not breach. Delta has remained resource-constrained, according to its own definition, from July 2021 through to August 2022.

Delta has not evidenced that its coal stockpile levels were directly linked to a failure to meet any covenants, nor that the stockpile level resulted in any financial penalties.

19 EUAA submission. https://www.aemc.gov.au/sites/default/files/2023-10/20231013%20-%20EUAA.pdf. p.2.

20 Section 5.3.3, AEMC, Compensation guidelines, Final guidelines, 21 October 2021.

Section 5.3.3 of the guidelines outlines how a claimant may demonstrate a commercial limitation and provides guidance on the range of factors that can be considered in assessing a limitation. The guidelines also state that the claimant needs to provide sufficient evidence to justify its claim.

The Commission set out its reservations regarding Delta's evidence of its claimed commercial limitation in both the DOCM and draft decision provided to Delta. Delta has not provided further evidence to alleviate the Commission's reservations or to demonstrate that it suffered a commercial limitation during or following the APP. Therefore, the Commission is not satisfied that Delta has demonstrated a commercial limitation.

Delta also disagreed with certain modelling of coal prices in the draft decision. The Commission does not rely on that modelling in this Final decision.

2.2.4 Delta did not forgo value from an alternative opportunity due to the application of a price cap

Even if the Commission found that Delta had demonstrated the existence of a relevant technical or commercial limitation, Delta would also need to demonstrate that:

- it suffered the foreclosure of an alternative opportunity to use its scarce capacity or resource (that is, the capacity or resource that is subject to the technical or commercial limitation) more profitably at the same point in time or, as claimed by Delta, at a later point in time[21]
- it forwent the value of that opportunity due to the imposition of the price cap.[22]

The Commission has considered the breadth of submissions made by Delta, EUAA and AEC, and determined that the imposition of the APC during the APP did not cause the foreclosure of an alternative opportunity for Delta.

The explanations provided by Delta to the Commission have been inconsistent on this point. In its original claim documents provided to the Commission in December 2022, Delta argued that it would have preferred to generate at a lower level during the APP to conserve its scarce coal so that it could generate in a future period for higher, uncapped, prices. However, in its submission in response to the DOCM, Delta argued that:

- the prices at which it was dispatched during the APP were considered by Delta to be sufficiently high for it to bid its units in at normal generation levels
- the only reason Delta would conserve generation during the APP was because of scarce coal.

Delta's submission to the Commission's draft decision adopted a different position. In the submission Delta argued that under normal circumstances, a spot price of $300/MWh would be sufficient for Delta to bid its generation at normal levels. However, due to the conditions prevailing during the APP where prices were capped at $300 and Delta claimed it was coal-constrained, it elected to lower its generation levels.

In the Commission's view, based on these arguments, it is not clear that Delta's generation behaviour would have been different had the price cap not been applied. We are unable to conclude, based on the evidence available, that the price cap caused the foreclosure of an alternative, more profitable, opportunity during or after the APP for Delta.

Further, as noted in section 2.2.2, there are opportunities for thermal plants to procure coal, including access to a spot market. While the Commission notes there were periods in which Delta and its contracted coal suppliers experienced challenges in delivering coal to Vales Point, these challenges did not prevent Delta from increasing its coal stockpile during and following the APP.

21 Section 5.3.1, AEMC, Compensation guidelines, Final guidelines, 21 October 2021.

22 Clause 3.14.6(a) of the NER

Therefore, while Delta may have had scarce coal supplies during the APC, and even if this did constitute a relevant limitation, the APC did not impact its ability to generate more energy following the APP (in the period Delta is claiming its forgone opportunity).

2.3 The Commission has determined Delta will not be awarded compensation

The above eligibility assessment indicates that Delta will not be awarded administered pricing compensation for its claimed opportunity costs. In light of the Commission's decision that Delta is not eligible for compensation for opportunity costs, it is not necessary to give further consideration to other elements of Delta's eligibility outlined in the NER and the guidelines.

We have considered stakeholder feedback in making our decision. This includes feedback on the draft decision from Delta that the decision is not compatible with the objective of the compensation framework, which is to maintain the incentive for market participants to provide services during an APP.

In determining Delta's claim for compensation, the Commission has applied the compensation guidelines[23] to the facts of the claim. In doing so, we have considered the broader objective of the compensation scheme under clause 3.14.6(c) of the NER, which in this case is to maintain the incentive for a scheduled generator to supply energy during an APP. We assess all administered pricing compensation claims on their individual merits based on the facts before us, and a decision on one claim does not necessarily mean that we will decide in the same way on another claim, pending the facts of the claim.

The Commission will write to AEMO to advise that Delta is not eligible for compensation.

2.4 Recovery of the AEMC's costs

Consistent with clause 3.14.6(v) of the NER, the AEMC will recover costs incurred by the AEMC in carrying out its functions in respect of assessing Delta's opportunity cost claim.

The costs to be recovered from Delta in respect of its claim:

- include costs incurred by the AEMC in engaging external contractors to support the claim assessment
- exclude AEMC staff costs and staff on-costs (such as payroll, utilities, hardware) incurred in assessing Delta's claim
- exclude costs that are not directly attributable to Delta's claim; for example, external contractor costs for advice relating to opportunity cost claims in general.

The Commission will advise Delta of the costs to be recovered from Delta under clause 3.14.6(v) of the NER following publication of this decision.

See section 2.4 for further details on cost recovery.

23 Clause 3.14.6(n) of the NER

A Background

Wholesale spot prices in the NEM can vary within a range of between minus $1,000 per MWh[24] and $15,500 per MWh.[25]

Persistent high or low prices can create risks for participants and impact the stability of the market. To limit this variation, at times of extreme prices where the cumulative price threshold (CPT)[26] is exceeded, the APC of $600 per MWh and the administered floor price of -$600 per MWh is applied to spot prices.[27]

At the time of the June 2022 market events to which this claim for compensation relates:

- the MPC was $15,100/MWh;[28]
- the CPT was $1,359,100;[29] and
- the APC was $300/MWh[30]

A.1 Administered pricing compensation

Clause 3.14.6 of the NER and the guidelines[31] set out a process for market participants to claim compensation for certain losses incurred during an administered pricing period where the APC or administered floor price is applied.

The purpose of administered pricing compensation is to minimise disincentives during administered price periods

The potential for market participants such as generators, particularly those with high costs, to incur a loss during these APPs may create a disincentive for them to supply energy and ancillary services, which could in turn have a negative impact on the security and reliability of the electricity system.

To minimise these disincentives, the NER allow participants to claim administered pricing compensation if they incur a loss during price limit events, being periods in which the spot price is set by the APC during an APP.[32] The AEMC administers this compensation process. Prior to June 2022, there has only been one claim for compensation arising from an APP that occurred in January/February 2009.[33]

24 This amount is the 'market floor price' under clause 3.9.6(b) of the NER.

25 This amount is the 'market price cap' (MPC) under clause 3.9.4 of the NER. Under clause 3.9.4(d) of the NER, the MPC must be adjusted in line with the consumer price index each year. At the time of the market events occurring in June 2022, the MPC was $15,100/MWh. As of 1 July 2022, the MPC is $15,500/MWh.

26 The CPT represents the limit of aggregate dispatch prices over a period of seven days (2,016 trading intervals). Under clause 3.14.1(e) of the NER, the CPT must be adjusted in line with the consumer price index each year. At the time of the market events occurring in June 2022, the CPT was $1,359,100. As of 1 July 2022, the CPT is now set at $1,398,100.

27 Clauses 3.14.1 and 11.155.2 of the NER.

28 Under clause 3.9.4(d) of the NER, the MPC must be adjusted in line with the consumer price index each year. As of 1 July 2022, the MPC is $15,500/MWh.

29 Under clause 3.14.1(e) of the NER, the CPT must be adjusted in line with the consumer price index each year. As of 1 July 2022, the CPT is $1,398,100.

30 As a result of making the *National Electricity Amendment (Amending the administered price cap) Rule 2022*, the APC is $600/MWh on and from 1 December 2022 until the end of 30 June 2025.

31 Published by the AEMC under clause 3.14.6(e) of the NER

32 See clause 3.14.6 of the NER. A price limit event also includes where the spot price for a trading interval is set as a result of price scaling (i.e. the application of clause 3.14.2(e)(2)), and for market participants in respect of scheduled load where the spot price for a trading interval is set by the administered floor price or the result of price scaling (under clause 3.14.2(e)(4)), for scheduled network service providers the spot price for a trading interval for a region towards which it is transporting power is set by the APC or price scaling, and for ancillary service providers where the ancillary service price for a trading interval is set by the APC during an APP.

33 AEMC 2010, Compensation claim from Synergen Power Pty Ltd, Final determination, 8 September 2010. https://www.aemc.gov.au/markets-reviews-advice/compensation-claim-from-synergen-power.

The administered pricing compensation process is designed to protect participants such as generators, scheduled network service providers, scheduled loads, ancillary service providers and demand response service providers from losses during a price limit event to maintain the incentive for them to continue to supply (or consume) energy or services (as the case may be).

A.2 Market events in June 2022

On 12 June 2022, the cumulative price threshold (CPT) was exceeded for the Qld region and the APC of $300/MWh was applied under clause 3.14.2(d1) of the NER from 6:55pm on that day. Price scaling applied to the other mainland National Electricity Market (NEM) regions when energy was flowing towards Qld. On 13 June 2022, the CPT was exceeded in the NSW, Victoria (Vic) and South Australia (SA) regions (from 6:35pm in NSW, 10:00pm in SA and 10:05pm in Vic). The APC of $300/MWh was therefore applied in each mainland NEM region.

The APC application in those regions coincided with reductions in the amount of generation bid into the market, resulting in a requirement for AEMO to intervene to maintain system reliability. At 2:05pm on 15 June 2022, AEMO determined that it was necessary to suspend the spot market in all regions of the NEM under clause 3.14.3 of the NER. During this period of market suspension, spot prices were no longer set by the APC but rather, were set in accordance with the market suspension pricing schedule published by AEMO. On 22 June 2022, AEMO released its criteria and process for lifting the market suspension.

APPs officially ended when the CPT was no longer exceeded. In SA, this occurred on 22 June 2022 and in NSW, Qld and Vic, this occurred on 23 June 2022. Normal dispatch pricing resumed on 23 June 2022. The market suspension was formally lifted by AEMO in all regions from 2:00pm on 24 June 2022.

B Administered pricing compensation process

Eligibility to claim for compensation

Parties eligible to make a claim for administered pricing compensation are:

- Scheduled Generators, Non-Scheduled Generators and Scheduled Network Service Providers to supply energy,
- Ancillary Service Providers to supply ancillary services,
- Market Participants with scheduled loads to consume energy, and
- Demand Response Service Providers to supply wholesale demand response.

These parties can claim compensation if they supplied energy or other services during an administered pricing period and incurred a net loss. That is, their direct and/or opportunity costs exceeded their total revenue from the spot market over an entire “eligibility period” (the period from the first trading interval of a trading day where the spot price is set by the administered price cap, until the end of that trading day). There may be multiple eligibility periods within an administered price period.

Direct costs are costs directly incurred by eligible participants due to a price limit event.

Opportunity costs are the value of opportunities foregone by eligible participants due to the price limit event as defined in the guidelines.

Making a claim

The guidelines set out how participants can make a claim for compensation for direct costs and opportunity costs following the application of an APC. The AEMC is required to apply the guidelines in assessing claims for compensation unless it is satisfied there are compelling reasons not to do so.

If a party decides to make a claim, the following applies:

- The claimant must provide notification in writing that it is making a claim within five business days of notification by AEMO of the end of the APP to both:
  - AEMC at applications@aemc.gov.au
  - AEMO at NEMIntervention@aemo.com.au
  - This notification in writing will include the:
    - APP and price limit event.[34]
    - Region(s) in which the APP and price limit event applied.
  - The notification will state whether the claim is a direct cost claim or a claim that includes opportunity costs.
  - It is possible to claim direct costs and opportunity costs for the same price limit event.

Commencing formal assessment of a claim

- After receiving the notification to make a claim, the AEMC will publish a notice of receipt. The AEMC will then seek information from the claimant that we consider required to enable assessment of the claim - if the claim includes opportunity costs, this information must include the methodology used by the claimant to determine its opportunity costs.

34 Price limit events(s) refer to a period in which the spot price is set by the APC during an APP or as a result of price scaling

- The claimant subsequently provides substantiation. The onus is on the claimant to provide evidence and justification. There is no set time period for this step. Any claims of confidentiality in respect of information provided by the claimant to the AEMC must be specified in the claim.
- The AEMC will commence formal assessment as soon as practicable after receiving sufficient information from the claimant.
- A notice will be published on the AEMC website that formal assessment has started.

Assessing and making a final decision with respect to a claim

- The assessment process for direct and opportunity costs is set out in the guidelines. Claims will be assessed in accordance with the statutory time frames.
- For **direct cost claims**, the following key steps apply:
  a. Commencement of formal assessment (once sufficient information is received from claimant – see above)
  b. Assessment of claim
  c. Consultation with claimant
  d. Final determination of compensation payable (45 business days after formal commencement)
  e. AEMC notifies AEMO of final amount payable
  f. AEMO includes details of amounts payable by or to market participants within 25 days of being notified by the AEMC
- For **opportunity cost** claims the following key steps apply.
  a. Commencement of formal assessment (once sufficient information is received from claimant see above)
  b. Assessment of claim
  c. Publish claimant's proposed methodology and AEMC's draft methodology for public consultation (within 35 business days of formal commencement)
  d. Close of consultation (minimum of 20 business days after publication of draft methodology)
  e. Final determination of compensation payable (35 business days after close of submissions)
  f. AEMC notifies AEMO of final amount payable
  g. AEMO includes details of amounts payable by or to market participants within 25 days of being notified by the AEMC

Recovery of AEMC's costs of claim

The Commission may recover from a claimant any costs incurred by the AEMC in carrying out its functions in respect of its claim. [35] The AEMC may require the claimant to pay all or a proportion of those costs to the AEMC prior to the claim being considered or determined.

The Commission will exercise its discretion in deciding whether to recover processing and administrative costs from the claimant and will assess any costs to be recovered from a claimant on a case-by-case basis.

35 Clause 3.14.6(v) of the NER.

The Commission has decided to recover costs incurred by the AEMC in engaging external contractors to support its functions in respect of assessing opportunity costs claims made in relation to the June 2022 APP.

Costs will be recovered from opportunity cost claims that proceed to formal commencement, with the cost recovery amount being calculated once the claim is closed, whether that is through the AEMC issuing a final decision or the claimant withdrawing its claim.

The Commission has decided at this stage not to recover costs from claimants for direct cost claims made in relation to the June 2022 APP.

C Chronology of Delta's compensation assessment process

The following table sets out the timing of Delta's compensation assessment process.

Table C.1: Chronology of Delta's compensation assessment process

Date/Time	Event
21 June 2022	Notice of claim received
6 December 2022	Supporting information received
6 February 2023	AEMC request for further information (1/2)
7 February 2023	Extension to publish final decision
8 June 2023	Formal assessment commenced
11 July 2023	AEMC request for further information (2/2)
20 July 2023	Extension to publish the draft opportunity cost methodology
14 September 2023	Draft opportunity cost methodology published
13 October 2023	Submissions on draft opportunity cost methodology received
19 October 2023	Late submission on draft opportunity cost methodology received
30 November 2023	Extension to publish the final decision
11 December 2023 – 15 May 2024	Consultation with claimant
16 May 2024	Final decision published

Abbreviations and defined terms

AEC	Australian Energy Council
AEMC	Australian Energy Market Commission, or the Commission
AEMO	Australian Energy Market Operator
APC	Administered price cap
APP	Administered price period
CPT	Cumulative price threshold
Commission	See AEMC
Delta	Sunset Power International Pty Ltd trading as Delta Electricity
DOCM	Draft opportunity cost methodology
EUAA	Energy Users Association of Australia
GST	Goods and services tax
Guidelines	AEMC, Compensation guidelines, Final guidelines, 21 October 2021
MW	Mega watt
MWh	Mega watt hours
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
NSW	New South Wales
Qld	Queensland
SA	South Australia
TCA	Total claimable amount
VP5	Vales Point 5
VP6	Vales Point 6
Vic	Victoria
VWAP	Volume weighted average price