



Minister for Energy and Resources

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Ref: D2013/30041

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
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Dear Mr Pierce

VICTORIAN SMELTER AGREEMENTS - NATIONAL ELECTRICITY RULES DEROGATION

I am writing to notify the Australian Energy Market Commission (AEMC) that, in accordance with section 91 of the National Electricity Law (NEL), the Victorian Government wishes to submit a proposal regarding a jurisdictional derogation to the National Electricity Rules (the Rules). The proposed derogation is in relation to the Smelter Agreements that dictate the supply of electricity to the aluminum smelters at Point Henry and Portland in Victoria. The principal objective is to clarify that the Smelter Agreement for a particular smelter facility need only apply under the Rules, until expiry of that agreement.

As required by section 91(3) of the NEL, I have as Minister for Energy and Resources consulted with my fellow Ministers of the other participating jurisdictions before lodging this submission with the AEMC.

The existing Clause 9.4.2 (a) of the Rules, in conjunction with the *Electricity Industry (Residual Provisions) Act 1993 (Vic)* (EIRP Act), sets out to preserve the continued operation of pre-existing Smelter Agreements entered into by State Electricity Commission of Victoria (SEC) and a smelter trader before the commencement of the National Electricity Market in 1998. For context, the Point Henry smelter receives electricity from Anglesea power station, owned and operated by Alcoa of Australia Limited, and the National Electricity Market through SEC as the Market Customer.

In its current form, Clause 9.4.2 (a) of the Rules does not clearly differentiate between Smelter Agreements (as defined in Clause 9.3.1), and principally each agreement ceases to have effect upon the termination of the last of the Smelter Agreements (Clause 9.4.2 (b)). Consequently when the Point Henry Smelter Agreement expires (31 July 2014) the obligations of SEC continue until the expiry of the Portland agreement (31 October 2016). Therefore during this period between agreement expiry dates, Alcoa of Australia Limited will not be able to assume its responsibilities under the Rules as Customer for the Point Henry smelter and as Generator for Anglesea Power Station. This outcome is inconsistent with the intention of the current derogation of the Rules.

The proposed rule change to Clause 9.4.2 (a) of the Rules states that the role of the SEC for each smelter trader exists only until the Smelter Agreement for that smelter expires. This is reflected in amendments to paragraphs (1), (2), (3), (5) and (7) and deletion of (4), (6), (8) and (9). There is a consequent change to the definitions provided in Clause 9.3.1.

The Victorian Government is proposing this rule change because it will correct an oversight in the current derogation, avoiding an unintended outcome. It will ensure that a Smelter Agreement for a smelter trader will not continue inappropriately. It is in the interests of the National Electricity Objective that derogations of this nature do not continue longer than necessary as they can have the effect of distorting the operation of the NEM, thus reducing the economic efficiency of its operation.

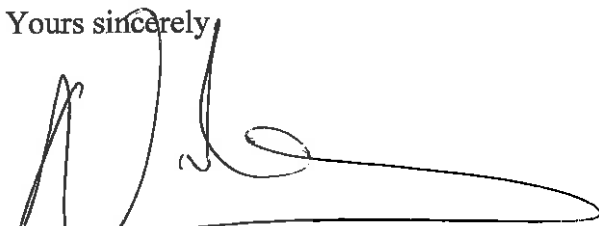
The Victorian Government submits that this change is non-controversial within the meaning of Section 87 of the National Electricity Law as it is in the nature of a correction and is therefore unlikely to have a significant effect on the NEM.

The proposed derogation is intended to take effect on the date that the Point Henry agreement expires (31 July 2014) or is terminated.

A copy of the proposed rule change and the application to the AEMC is attached to this letter.

Should you have any queries in relation to the proposed derogation, please do not hesitate to contact Raif Sarcich, Director, National Energy Market Development, Energy Sector Development Branch, Department of State Development, Business and Innovation Director on 03 9092 1902 or via email at raif.sarcich@dssdbi.vic.gov.au

Yours sincerely,



Hon. Nicholas Kotsiras MP
Minister for Energy and Resources

12 / 12 / 2013

Encl.