

**By online submission**

11 February 2010

Dr John Tamblyn  
Chairman  
Australian Energy Market Commission  
PO Box A2449  
SYDNEY SOUTH NSW 1235

Our reference 16694/11696/80072277

Dear Dr Tamblyn

**Consultation Paper: National Electricity Amendment (Publication of a Carbon Dioxide Equivalent Intensity Index for the National Electricity Market) Rule 2009**

Thankyou for the opportunity to comment on the Rule Change proposed by the Australian Energy Market Operator (**AEMO**) and released for consultation as the *National Electricity Amendment (Publication of a Carbon Dioxide Equivalent Intensity Index for the National Electricity Market) Rule 2009 (Rule Change)*.

Clayton Utz supports the publication by AEMO of a CO<sub>2</sub>-equivalent Intensity Index (**Index**) as proposed in the Rule Change, with one amendment.

We consider that the publication of the Index is important to the transparency and stability of prices in the National Electricity Market (**NEM**) for NEM participants and, ultimately, consumers. In particular, the Index will assist in stabilising electricity derivatives markets by providing NEM participants with information needed to make an assessment of likely future costs and benefits of carbon-inclusive pricing of electricity. This is required whether or not the proposed Carbon Pollution Reduction Scheme proceeds in the form currently proposed by the Government. Publication of the Index is therefore important to the achievement of the National Electricity Objective.

Clayton Utz also supports the proposed approach of compiling the Index on the basis of publicly-available information. It is considered that information that is both sufficient and sufficiently reliable will be publicly available to allow AEMO to prepare the Index without imposing additional compliance obligations on NEM participants. We support the publication of a list of generating units that have been included in calculating the Index and of the information and methodology used in calculating the Index, as proposed in the Rule Change. This will allow NEM participants to reach their own views on the accuracy of the Index.

We agree that a timetable should be published for the publication of an Index, as proposed in the Rule Change.

We suggest that one amendment be made to the Rule Change as currently proposed. This would be to clearly allow AEMO to publish more than one Index, if it considers appropriate. For instance, we consider that NEM participants would benefit from access to at least two indices:

1. a weekly index based on NEM settlement periods; and
2. a monthly index of the volume-weighted average of emissions during each day in a calendar month.

The reason for the adoption of an additional calendar monthly index is that, although the wholesale spot market settles on a weekly basis, most retail energy contracts operate on a monthly or quarterly billing cycle, and having a calendar monthly index of intensity would assist in a pass-through of carbon values under those contracts.

We are finding also that a calendar monthly index of power generation carbon intensity would be useful for supply contracts in energy-intensive industries such as the aluminium sector.

To facilitate the formulation of additional indices, we suggest that a sub-paragraph be inserted to the Rule Change as follows:

- (j) *AEMO may, if it considers appropriate, establish, maintain, update and publish more than one greenhouse intensity index in accordance with this clause 3.13.X.*

Finally, to accord with the requirements of the documentation for forward electricity markets, we consider that the detailed procedures for preparing the Index should ensure that any necessary corrections to the Index are published as quickly as possible. By default, most forward market documentation would allow the parties to adjust payments where a correction is made to the Index within 30 days of original publication, but not if the correction occurred more than 30 days after publication.

If you have any queries in relation to this submission, please do not hesitate to contact Graeme Dennis on 02 9353 4106 or [gdennis@claytonutz.com](mailto:gdennis@claytonutz.com).

Yours sincerely



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