

Expert Panel Recommendations to the Australian Energy Market Commission

Assessment of Synergen's Claim for compensation Pursuant to Clause 3.14.6 of the National Electricity Rules

18 August 2010

Note:

In accordance with section 24 of the *Australian Energy Market Commission Establishment Act 2004 (SA)* and section 31 of the National Electricity Law, the Australian Energy Market Commission has blacked-out certain information contained in this Report which is subject to a claim of confidentiality by Synergen Power Pty Ltd. Where information has been blacked-out on a page of this Report, the following marginal note appears on the relevant page: "Confidential information on this page has been blacked-out by the AEMC. Please see the note on the cover of this Report for details."

Panel

Geoff Swier, Chair

Sibylle Krieger

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GLOSSARY AND ABBREVIATIONS

Abbreviation	Definition
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
APC	Administered price cap
APP	Administered price period
Bp	Basis points
CPT	Cumulative price threshold
DUID	Dispatchable Unit ID
GJ	GigaJoule - 10 ⁹ Joules
GST	Goods and Services Tax
HHV	Higher Heating Value - Heat produced by a fuel where the water in the combustion products is condensed to liquid form
kL	Kilolitre - 1,000 litres
MPC	Market price cap
MWh	Megawatt hour
MWh generated	Gross megawatt hours generated by a generating unit, including for its own auxiliary load
MWh sent out	Net megawatt hours sent out to the NEM by a generating unit, after deducting its own auxiliary load
NEL	National Electricity Law
NEM	National Electricity Market
NEMMCO	The predecessor to AEMO, and the market operator at the time of the APP.
NER	National Electricity Rules
OEM	Original equipment manufacturer
O&M	Operations and Maintenance
Panel	The panel constituted under para (g) of Cl 3.14.6 of the Rules to make recommendations to the AEMC as to whether compensation should be payable by the AEMO to Synergen in respect of this Claim
Rules	National Electricity Rules

Unless the context requires otherwise, terms which are defined in the Rules and which are used in this report have the meaning given to them in the Rules.

EXECUTIVE SUMMARY AND RECOMMENDATIONS

This is the first claim for compensation made by a Generator under clause 3.14.6 of the National Electricity Rules and the guidelines published by the AEMC on 30 June 2009 and entitled “The Determination of Compensation Following the Application of the Administered Price Cap, Market Price Cap, Market Floor Price or Administered Floor Price – Guidelines”.

The advice of the Panel to the AEMC is that, with minor exceptions, the Claim made by Synergen should be allowed.

Synergen has claimed confidentiality for all Annexures to its Claim except Annexure 7 (which sets out spot market income received). Most importantly, Synergen has claimed confidentiality for the total amount it claims, and for all information which discloses the nature and amount of the direct costs which make up its Claim. Synergen does not claim any opportunity costs.

The Panel has been advised by the AEMC that, notwithstanding the terms of the Guidelines, particularly section 4, it is not presently open to the AEMC or to the Panel to overrule a confidentiality claim of a Claimant under clause 3.14.6 of the Rules. Accordingly, in writing the public version of this report the Panel has been unable to refer to or disclose any materials contained in the Annexures to Synergen’s Claim for which confidentiality is claimed.

1 INTRODUCTION

1.1 Purpose

Clause 3.14.6 of the National Electricity Rules (Rules) states how compensation can be claimed by various participants in the National Electricity Market (NEM) following various defined events, including application of an Administered Price Cap (APC) by the Australian Energy Market Operator (AEMO).

The objective for payment of compensation is to maintain incentives for participants to invest in plant that provides services during peak periods and to supply energy and other services during an APC.

A claim for compensation is determined by the Australian Energy Market Commission (AEMC). As required by the Rules, the AEMC has published guidelines¹ (the Guidelines) that provide details as to how Clause 3.14.6 is to be applied.

Synergen Power Pty Ltd (Synergen) notified NEMMCO and the AEMC of its intention to make a claim on 13 February 2009 and submitted an initial claim on 18 August 2009, subsequently amended on 12 February 2010, and followed by a further amended and restated claim to the AEMC pursuant to the Rules and the Guidelines on 31 March 2010. A new version was substituted on 19 April 2010 to correct an arithmetic error (the Claim). The Claim relates to the impact of an APC in the period between 29 January and 7 February 2009 on two Generating Units in South Australia.

1.2 Process

In September 2009, at the request of the AEMC, the *Adviser* established a three member panel (the Panel) under clause 3.14.6 (g) of the Rules to provide advice on the compensation claim. The Panel members are Geoff Swier (Chair), Sibylle Krieger and Bob Graham.

The Panel's role is carried out in 2 stages. It must first provide the AEMC with a draft report setting out draft recommendations. The draft report of the Panel was provided to the AEMC on 14 May 2010. The AEMC published the draft report together with its draft decision on 23 June 2010.

Following a period of public consultation administered by the AEMC, the Panel must provide a report with its final recommendations (this report). In preparing its draft report the Panel must apply the Guidelines and in finalising its report the Panel must take into account any written submissions received in response to the AEMC's publication of the draft report together with the AEMC's draft decision.

¹ AEMC 2009, The determination of compensation following the application of the administered price cap, market price cap, market floor price or administered floor price, Guidelines 30 June 2009.

In the event that compensation is payable, clause 3.15.10 of the Rules provides that AEMO must effectively recoup that amount from all Market Customers who purchased electricity from the spot market in the relevant region during the period of the administered price.

Those Market Customers clearly have an interest in the process by which the entitlement to compensation and its amount are determined. They and anyone to whom they are able to pass on this cost are clearly among the stakeholders who may wish to make written submissions in response to a draft decision and draft recommendations published by the AEMC, and whose submissions must be taken into account by the Panel in making its final recommendations to the AEMC.

In order for all of these stakeholders to exercise the right they are given, they must have access to sufficient information to assess whether the draft recommendations and the draft decision appear to be in accordance with the Rules and the Guidelines. At the same time, it is likely that the information required to be provided by a claimant to substantiate a claim will, at least in part, be confidential information. For example, details of direct costs will often be confidential and possibly also the details under-pinning opportunity cost. Equally, some matters can never be confidential such as the identity of the claimant and the amount proposed to be awarded.

1.3 Confidentiality

There is obvious potential tension between the interests of the claimant to protect its confidential information and the needs of those with a right to make submissions to have access to enough information to be able to exercise that right.

In the present Claim, Synergen has made a wide claim for confidentiality. Synergen claims confidentiality in respect of all information not contained in the body of its Claim (which includes Schedule 1), except Annexure 7 to the Claim which sets out details of Spot Market Income received in respect of each trading interval which occurred during the period covered by the Claim (Relevant Trading Intervals). A substantial part of Synergen's confidentiality claim relates to details of its direct costs : Annexure 4 - Financing Costs, Annexure 5 - Direct Costs, Annexure 6 - Financing Costs, and the documents referred to in those Annexures and subsequently supplied by Synergen in confidence to further explain and substantiate matters set out in those Annexures.

A part of Synergen's confidentiality claim relates to hypothetical details of what Synergen's claim might have been, had it not re-offered available capacity into lower price bands for certain of the Relevant Trading Intervals: Annexure 1 and Annexure 8. In view of the conclusions reached by the Panel in respect of the correct interpretation of "dispatch offer" in the context of the Claim, the hypothetical details put forward by Synergen are unnecessary to take into account in determining the Claim.

Perhaps most importantly, Synergen claims confidentiality in respect of Annexure 2 : Total Claimable Amount and Annexure 3 : Particulars of Direct Costs. Annexure 2 sets out total direct costs included in the Claim, subtracts pool revenue received, adds financing costs to the date of the Claim and provides for future financing costs to the date

of payment (if any) of the Claim. Annexure 3 breaks down Synergen's direct costs of each of the 2 power stations into the categories set out in section 10.2 of the Guidelines: fuel, operations and maintenance, and ancillary services. Neither Annexure 2 nor Annexure 3 disclose how each item is calculated or what information underlies the total amounts specified.

The AEMC has advised the Panel that, notwithstanding the terms of the Guidelines, particularly section 4, it is not presently open to the AEMC or to the Panel to overrule a confidentiality claim of a claimant under clause 3.14.6 of the Rules. In the absence of this advice, the view of the Panel would have been that Synergen's confidentiality claims in respect of Annexure 2 and Annexure 3 should not be upheld.

Clause 3.14.6(j) of the Rules provides that "any person may make a written submission to the AEMC on the report [of the Panel which sets out the Panel's draft recommendations] and the AEMC's draft decision". This right to make submissions is constrained if it is open to claimants to claim confidentiality in respect of the total amount which they claim and in respect of any breakdown which shows how much of their total claim falls within each category of permissible cost identified in section 10 of the Guidelines, and if it is not open to the AEMC or the Panel to overrule any confidentiality claim.

2 BACKGROUND

Synergen's Claim relates to the generation output of two power stations in South Australia:

- Port Lincoln Gas Turbine (Port Lincoln) 2 x 25 MW – DUID POR01
- Snuggery Power Station (Snuggery) 3 x 21 MW – DUID SNUG1

These power stations consist of Market Scheduled Generating Units² registered to Synergen Power Pty Ltd, with the details above. Synergen is therefore the Scheduled Generator with respect to these Scheduled Generating Units.

NEMMCO³ determined that an APC should be applied between the trading interval that commenced at 15.30 hours on 29 January 2009⁴ and the trading interval that ceased at 04.00 hours on 7 February 2009⁵ (Administered Pricing Period or APP).

The impact of the APC is that a price cap of \$300 per MWh was applied to all energy generated in the South Australian region of the NEM for each trading interval during the APP.

Synergen claims that the APC set spot prices lower than they would otherwise have been and that as a result the direct costs for operating the two power stations was in excess of the total pool revenue received during this period. The Panel has reviewed the confidential Annexures to Synergen's Claim and the further supporting materials provided by Synergen.

All of the costs which comprise Synergen's Claim are contemplated as appropriate and potentially compensable categories of costs in the Guidelines.

² Clause 2.2.2 of the Rules

³ NEMMCO Market Notice 24605.0 issued 29 January announced the beginning of the APC. NEMMCO market notice 24884.0 issued 7 February 2009 determined the end of the APC.

⁴ Market Notice 24605

⁵ Market Notice 24884

3 SHOULD COMPENSATION BE PAYABLE?

The first question on which the AEMC has requested advice is whether compensation should be payable.

The Panel has considered the Guidelines and relevant Rules; Synergen's Claim and all earlier versions of it; further detailed information requested of, and provided by Synergen; and information provided by AEMO in accordance with the Rules. In addition, the Panel has considered the submissions of AGL Sales Pty Limited ("AGL") and Origin (LGC) (Aust) Pty Limited ("Origin"), both dated 21 July 2010, which were made in response to the AEMC draft decision. AGL's submission comments at length on the Panel's draft report to the AEMC.

The Panel's assessment is that compensation should be payable because the information provided to the Panel complies with the Guidelines and substantially enables the Panel to properly understand and verify the Claim; the circumstances for payment of compensation are consistent with the Rules; and the proposed methodology for calculating compensation complies with the Guidelines.

3.1 Compliance with Information requirements

The first question to consider is whether the necessary information has been provided such that it complies with the Guidelines⁶ and that the Panel can properly understand and verify the Claim.

It is useful to set out the process that was followed for ensuring the completeness of the information.

First the Panel analysed Synergen's claim as set out in an earlier version of the Claim, identified a number of issues and considered the approach it would take to verifying the Claim. Following consultation with Synergen, the Panel requested further detailed information that should be provided to support verification of the amounts claimed. Some minor discrepancies in the claim were also identified and Synergen was offered the opportunity to correct these by amendment of its claim. On the Panel's advice, the AEMC requested Synergen to provide this further information on 4 December 2009 and certain further information was provided on 12 February 2010. Synergen also decided to submit an amended submission to address discrepancies. The Panel also sought information from AEMO, which was provided on 18 November 2009. Following further assessment, on the Panel's advice, the AEMC requested Synergen to provide further information on 19 February 2010 and this was provided on 12 March 2010 and evaluated by the Panel as sufficient on 24 March 2010. The compensation assessment process formally commenced on that date. Synergen again decided to submit an amended submission to address discrepancies (this was done on 31 March 2010), and finally substituted a further version

⁶ Information requirements are set out in Section 10 of the Guidelines.

on 19 April 2010 to correct arithmetic errors. This final submission is still dated 31 March 2010 and is referred to as the Claim.

On 24 March 2010, based on the advice of the Panel, the AEMC informed Synergen that the information provided by it up to and including 12 March 2010 was consistent with the Guidelines and was sufficient for the Panel to properly understand and verify the Claim to a material level, with minor exceptions.

The information provided by Synergen complies with the Guideline requirements⁷ as follows:

- the claimant's eligibility to claim compensation was clearly identified
- the total value of compensation being sought was identified
- the time periods were clearly identified
- an adequate narrative of the circumstances that resulted in the identified costs being incurred was provided
- the itemised quantitative breakdown of the direct costs being claimed for was provided in appropriate detail.

AEMO also provided appropriate information, as required by the Guidelines⁸:

- certain facts claimed in Synergen's narrative were verified
- the necessary details of spot market income, metered energy data and other data were provided
- the time periods referred to in the Claim were confirmed as correct

3.2 Compliance with Rules

The Rule setting out the basis for compensation is clause 3.14.6 which states:

"Scheduled Generators may claim compensation from AEMO in respect of generating units if, due to the application of an APC during either an administered price period or market suspension, the resultant spot price payable to dispatched generating units in any trading interval is less than the price specified in their dispatch offer for that trading interval."

The Panel has confirmed that

- Synergen is a Scheduled Generator with respect to the Port Lincoln and Snuggery scheduled generating units
- There was an APC applied and the generating units were dispatched during certain periods while the APC was in place; and

⁷ Section 9.1.1 of the Guidelines

⁸ Section 9.1.2 of the Guidelines

- The spot price payable to dispatched generating units in the relevant trading intervals was less than the price specified in Synergen's dispatch offers.

With regard to the last point, the Panel sought AEMO's advice on Synergen's offers, rebids and their relationship to the Administered Price Cap; and considered the proper construction of the term "dispatch offer" in the context of the present Claim.

AEMO advice on offers, rebids and relationship to the APC

AEMO advised as follows

"Throughout the period of the Claim, the offers (as distinct from any subsequent re-bids) for both Snuggery and Port Lincoln had all available capacity offered at prices exceeding the Administered Price Cap value of \$300/MWh. The minimum price offered was \$500/MWh for the first 18 MW of the Snuggery capacity.

The capacity of both Snuggery and Port Lincoln was re-bid under NER clause 3.8.22 into lower-priced bands, including band 1 priced at -\$1000/MWh. The periods covered by the re-bids are aligned with the periods of generation, and re-bids were only submitted after the generation was dispatched into service from the (highest priced) band 10. This had the effect of maintaining the generation at sustainable levels so that the generators were able to move to full output quickly to assist in meeting system load variations, and minimising the risk of premature shutdown."

What is a "dispatch offer"?

Synergen asserts that Clause 3.14. 6 (a) of the Rules should be read so "that the reference to a "dispatch offer" in respect of a generating unit for a trading interval is a reference to the **original** dispatch offer for that trading interval prior to any variation of available capacity with price bands" (see paragraph 2.2 of the Claim). Synergen's point in this part of its Claim was to establish that subsequent variations to a dispatch offer made in accordance with clause 3.8.22 of the Rules should not disentitle a claimant from claiming compensation, particularly if the variations made by re-offering capacity into lower price bands are made to further the objectives of clause 3.14.6 of the Rules as further explained in the Guidelines as follows:

"This compensation regime is just one component of the market's broader MPC-Cumulative Price Threshold (CPT)- APC mechanism, which, as a whole, provides a comprehensive framework to provide investment signals and manage risks faced by retailers and other market participants.

...

"The payment of compensation recognises (the) regulatory risk that participants may face in the market. It ensures that participants are not disadvantaged by continuing to

participate in the market during high stress periods, such as an administered price period or other event.”⁹

The NER Glossary¹⁰ defines “generation dispatch offer” as

A notice submitted by a Scheduled Generator or Semi-Scheduled Generator to AEMO relating to the dispatch of a scheduled generating unit or a semi-scheduled generating unit in accordance with clause 3.8.6.

Clause 3.8.6 requires Generators to make dispatch offers in advance for each 48 hour period for the trading day (the 24 hour period commencing at 4.00 am of each day). Dispatch offers must remain “firm”. However clause 3.8.22 provides that “rebids” can be made provided they are for a verifiable reason.

The Panel therefore agrees with Synergen that the term “dispatch offer” refers to the original bid made in advance (the process as described in Clause 3.8.6), and that a subsequent rebid made in accordance with clause 3.8.22 does not alter the nature of the “dispatch offer”.

In the view of the Panel, this interpretation of “dispatch offer” is not only open on the wording of the Rules, but is also consistent with the objectives of the compensation provisions in clause 3.14.6 of the Rules. The objectives are set out in clause 3.14.6(c)(1) as follows:

“...to maintain the incentive for:

- (i) Scheduled Generators, Scheduled Network Service Providers and other Market Participants to invest in plant that provides services during peak periods; and
- (ii) Market Participants to supply energy and other services during an administered price period;”

In other words, the Rules identify as a key objective the continued supply of energy during an APP.

The Origin submission did not address the interpretation of “dispatch offer” for the purposes of clause 3.14.6(a) of the Rules. The AGL submission, however, made detailed submissions concerning the interpretation of “dispatch offer”. In substance, AGL disagreed with the interpretation set out in the draft report of the Panel.

AGL’s position is that the interpretation of “dispatch offer” put forward by Synergen and accepted by the Panel in its draft report is not an interpretation of the Rules as they are and involves an impermissible Rule change. AGL’s position is also that the interpretation of “dispatch offer” accepted by the Panel is inconsistent with the Guidelines, inconsistent with a briefing paper of AEMO¹¹, and neither consistent “with competitive market

⁹ Section 5 of the Guidelines

¹⁰ Chapter 10

outcomes and the normal operation of the NEM nor are they consistent with the NEM objective”¹².

The Panel disagrees with AGL. The starting point for interpretation of the Rules must be within the four corners of the Rules themselves, read in conjunction with the overarching objectives of the NEL. Administrative documents such as the Guidelines prepared under the Rules or the AEMO briefing paper are subsidiary to the NEL and the Rules and cannot influence their interpretation.

AGL’s position is that clause 3.14.6 provides for the normal operation of the competitive market to continue during an APP to ensure that compensation is paid at an efficient level¹³. Indeed, AGL equates normal operation of the competitive market with the NEM objective. The Panel does not agree with this position.

The NEM objective is set out in section 7 of the NEL as follows:

The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to—

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.

While a competitive market is normally the means by which the NEM objectives are achieved, a competitive market is not itself a NEM objective. Further, while efficient prices are a NEM objective, so also are reliability and security of supply. The balance between these objectives in a particular situation depends upon the Rules governing that situation.

In our view, the notification of an APP and the imposition of an APC necessarily modify and distort normal operation of the competitive market. This is to be expected. An APP occurs in periods of high stress when reliability of supply is at risk. The Rules identify the continued supply of energy during an APP as a key objective of the compensation provisions, not the normal operation of the competitive market.

AGL submits that the Panel’s interpretation of “dispatch offer” (which it incorrectly characterises as a modification of the Rules rather than interpretation of the Rules) has certain undesirable consequences. These include the fact that a Generator which has been dispatched may rebid at lower prices to ensure that it is dispatched for all remaining trading intervals of the APP, knowing that it will be compensated. AGL submits that this consequence is undesirable because it enables Generators to rebid below their efficient costs, and absolves them from minimising operational and start up costs at the ultimate expense of consumers.

The Panel acknowledges that the consequences which AGL describes may occur during an APP but is of the view that this is the compromise which the Rules as currently framed

are designed to achieve. During an APP, priority is given to reliability and security of supply of energy.

AGL submits that, if “dispatch offer” were read as “dispatch offer as modified by subsequent rebids” then this would serve to minimise compensation payable and ultimately serve to provide the least cost outcome for consumers. The Panel’s answer to this point is that, in the unusual circumstances of an APP, the Rules as correctly interpreted give priority to reliability and security of supply.

There is no doubt that different market designs could be devised to deal with periods of high stress in the NEM. It is not the role of the Panel to comment on the current market design for APPs or to decide whether the current Rules strike the optimal balance between price and reliability of supply during APPs. Our role is simply to interpret the Rules as they are, given their current wording and stated objectives.

While the Panel’s interpretation of the term “dispatch offer” does not depend on the validity of or motivation for any subsequent re-bid, the Panel notes AEMO’s comments on Synergen’s rebidding above, which indicate that Synergen’s rebidding contributed to the reliable operation of the system during this period of system stress, and was consistent with the objectives for the compensation arrangements.

3.2.1 Methodology

Section 10 of the Guideline sets out the methodology to calculate compensation.

The Panel considers the methodology proposed by Synergen for calculating compensation is consistent with the Guidelines. This is assessed in more detail in the next section.

4 TOTAL CLAIMABLE AMOUNT

The second question on which the AEMC has requested advice is the total claimable amount, if compensation should be payable.

The Panel has considered the matters set out in the Claim together with the material contained in the Annexures (both confidential and non-confidential) to the Claim. Further, the Panel considered additional documents and information provided by Synergen in confidence to substantiate the Claim, both of its own volition and in response to requests from the Panel.

The Panel assessment is that the Claim made by Synergen should be allowed with the following minor adjustments

- a deduction of \$█ for labour costs
- a consequential reduction in claimed financing costs

4.1 Methodology for calculating compensation

As set out in the Guidelines¹⁴, the Total Claimable Amount is made up of three items for each Trading Interval;

- Direct Costs Incurred in Trading Interval t,
- Opportunity Costs Incurred in Trading Interval t, and
- Spot market income received in respect of Trading Interval t.

Direct Costs are assessed in Section 5. No Opportunity Costs were claimed with respect to any Trading Interval. Spot Market Income is assessed in Section 6.

Synergen provided detailed calculations for all Direct Costs as detailed in the following sections. Synergen also provided copies of its normal business records (e.g. timesheets, contracts, monthly reports, maintenance schedules and costs) in confidence to support almost all the inputs to the calculations.

The Panel has independently verified Synergen's calculations, and the Panel has verified all inputs against Synergen's normal business records except as noted below.

It is not the role of the Panel to be the claimant's auditor or to review every document in the possession of a claimant which is or could be relevant to an aspect of a claim. In verifying claims a Panel must form a view as to what is a sensible and appropriate level of verification given the size of the claim, the materiality of the item in issue and the cost of verification. At the same time, a Panel must keep in mind that the onus of substantiating a claim rests with the claimant.

¹⁴ 10.1

4.2 Relevant Trading Intervals

4.2.1 As claimed

Synergen specifies the start of the APP as the trading interval which commenced at 15:30 hours on 29 January 2009.

Synergen specifies the last trading interval of the APP as the trading interval which ceased at 04:00 hours on 7 February 2009¹⁵.

4.2.2 As verified

AEMO specifies the start of the APP as the trading interval which commenced at 15:00 hours Eastern Standard Time on 29 January 2009.

The Market Notice (24605) for the start of the APP says it “will apply from 15:30 Trading Interval”...

AEMO specifies that the APP terminated at 04:00 hours Eastern Standard Time on 7 February 2009 and Market Notice 24884 confirms this.

As pointed out by AEMO, while the above text in the Claim concerning the start of the APP is not correct, Synergen’s supporting calculations use the same trading intervals as verified by AEMO for the APP, and the calculations were verified as correct.

¹⁵ Section 4.2 of the Claim

5 DIRECT COSTS

The Direct Costs Incurred were not itemised by Trading Interval.

The direct costs detailed by Synergen are comprised of 3 items¹⁶;

1. Fuel
2. Operation and Maintenance, and
3. Ancillary Services

The total amount of generation in the APP needs to be determined as an input into determining fuel cost.

5.1 Fuel

5.1.1 As claimed

The Claim for fuel is made up of, for each power station, the product of a total amount of generation (discussed in Section 5.2.1 below) and a fuel cost per MWh of generation.

As detailed in confidential Annexure 5, the fuel cost per MWh of generation is the result of dividing a total fuel cost (\$) by a total monthly generation figure (MWh) (discussed in Section 5.2.1 below) for each power station, each totalled across January and February.

The total fuel cost is made up of, for each power station for January and February, the product of a total amount of fuel used (kL) and a cost per kL of fuel.

For each power station, the cost per kL of fuel is the result of dividing a total fuel deliveries cost (\$, net of GST and net of excise) by a total quantity of fuel delivered. These are both totalled for selected deliveries from 29 January to 9 February 2009 for Port Lincoln and from 2 to 10 February 2009 for Snuggery. The rate of excise used was verified as 38.14 c/L from the Australian Tax Office publication "Fuel tax credits for business"¹⁷.

The deliveries chosen "as they most closely reflect the actual cost of operations"¹⁸ result in a lower fuel cost than using all deliveries from 29 January to 10 February.

The delivery data supplied to the Panel in confidence was as follows;

- Date,
- Supplier,
- Quantity (Litres is assumed),
- Unit Price,
- Total Cost (The product of the previous two),

¹⁶ Annexure 3.

¹⁷ Reference NAT 14584-09.2009

¹⁸ Letter from Stephen Orr, 12 February 2010

- Whether GST was applicable,
- Excise included (and subsequently rebated),
- Total Cost net of excise (which is used to derive the cost per kL).

This delivery data was verified by the Panel against copies of Synergen's actual fuel delivery tax invoices from the fuel suppliers.

The total amount of fuel used by Port Lincoln power station each month was verified by the Panel against copies of Synergen's actual monthly reports.

The total amount of fuel used by Snuggery power station each month was verified by the Panel against copies of Synergen's actual monthly reports, converted by Synergen from tonnes to kL at an assumed density of 0.85 tonnes per kL.

5.1.2 As adjusted

Fuel was by far the largest direct cost component of the Claim. Accordingly, this portion of the Claim was verified in detail. It was validated without any adjustment.

5.2 Generation

5.2.1 As claimed

The total amount of generation in the APP is summed across the Relevant Trading Intervals. Snuggery 1 data for three trading intervals on 5 February was not included in the total, as this was for a test run.

The monthly gross generation figures for each power station for January and February were verified by the Panel against copies of Synergen's actual monthly reports.

The monthly nett generation figures for each power station for January and February based on the same monthly reports are detailed below.

Table 5-1 Monthly nett generation in Synergen submission

Generation (MWh)	Port Lincoln	Snuggery
January 2009	1,455.5	1,361.4
February 2009	130.3	184.3
Total	1,585.8	1,545.7

5.2.2 As adjusted

The Panel has accepted Synergen's total generation amounts. These nett generation figures show minor discrepancies to AEMO data for energy exports which have not been reconciled.

Table 5-2 Monthly energy exports to pool from AEMO data

Generation (MWh)	Port Lincoln	Snuggery
January 2009	1,457.7	1,386.4
February 2009	148.4	188.7
Total	1,606.1	1,575.1

5.3 Validation of claimed costs against AEMO published assumptions

As noted in 10.2.1 of the Guidelines, AEMO regularly publishes assumptions on generation costs in the NEM. The most recent publication¹⁹ outlines the following relevant data for these power stations.

Table 5-3 Generation assumptions published by AEMO

Parameter	General	Port Lincoln	Snuggery	Reference
Thermal efficiency HHV		13.85 GJ/ MWh sent out	13.85 GJ/ MWh sent out	Table 14
Auxiliaries		8.0%	3.0%	Table 14
Fuel price	\$30/GJ			3.4.3
Energy content	0.035 – 0.045 GJ/litre			3.4.3 footnote
2009/10 Short run marginal cost		\$391.00/ MWh generated	\$412.25/ MWh generated	Table 30

As an additional check, the costs in the Claim were reviewed against this public report. For each power station, the cost per MWh of generation in the Claim is less than the 2009/10 Short run marginal cost assumed by AEMO.

5.4 Operations and Maintenance

5.4.1 As claimed

Operations and maintenance costs were totalled only from labour costs and start costs for Snuggery and Port Lincoln.

¹⁹ Fuel resource, new entry and generation costs in the NEM, ACIL Tasman, April 2009

5.4.1.1 Labour costs

Labour costs were detailed²⁰ for Synergen labour and contractor labour for Port Lincoln, and for Synergen labour only for Snuggery for the days 29 to 31 January inclusive and 6 February.

The work performed on these days was stated as “to receive fuel deliveries and perform maintenance and inspection work in the days following the operation of the assets. The attendance is directly related to operation.”²¹

All labour costs are calculated as the product of hours worked and an hourly rate. Overtime rates were 1.75 times ordinary hour rates.

The Synergen labour hours worked were verified by the Panel from copies of timesheets for two staff, referred to as persons A and C.

The contractor hours worked at Port Lincoln were verified against a tax invoice and timesheet for a contractor, referred to as person B for January, but supporting data was not supplied for 2.5 hours claimed for February.

The hourly rates for all Snuggery power station labour costs were verified against employment contract documents, based on a 37.5 hour week, a 52 week year and excluding bonuses.

The hourly rates for the Port Lincoln power station labour costs for Thursday 29 January were verified against employment contract documents, based on a 37.5 hour week, a 52 week year and excluding bonuses. However higher hourly rates were claimed for Friday and Saturday 30 and 31 January, and for Friday 6 February. No supporting data was provided for these higher rates.

The hourly rate for contractor hours was verified from January’s invoice, and GST was not included.

5.4.1.2 Start costs

This is the product of a number of starts and an O&M cost per start (discussed in Section 5.4.1.2.2 below).

5.4.1.2.1 Number of starts

These numbers, shown in

Table 5-4 were derived from the generation data, which is publicly available.

²⁰ Hours and rates, broken into ordinary time and overtime

²¹ Confidential letter 12 February 2010

Table 5-4 Number of starts claimed

Unit	Port Lincoln units 1 and 2	Snuggery 1	Snuggery 2	Snuggery 3
Number of starts	5	0	2	2

Snuggery

Snuggery units 2 and 3 were already running at the commencement of the APP. A start for each of them was not claimed for this, only for two other starts during the APP.

Snuggery unit 1 ran briefly on 5 February, but a start was not claimed as this was a test run.

Port Lincoln

The data provided combines the generation from both units and assumes a second unit is running once the generation exceeds 24 MW. This methodology is conservative.

Based on this methodology, both units were already running at the commencement of the APP. A start for each of them was not claimed for this, only for five other starts in total during the APP.

5.4.1.2.2 O&M cost per start*Snuggery*

The O&M cost per start for Snuggery is based on a cost per maintenance activity divided by the number of starts which can be performed before the maintenance activity is required. Discounting has been ignored²². The Panel's view is that this is a reasonable method for calculating a cost of maintenance incurred per start.

The Panel verified the estimated cost of the maintenance activity against a 2006 Whole of Life Plan for Snuggery, plus a quotation for gas generator overhaul, both provided by Synergen.

A manufacturer's recommendation was provided by Synergen to verify the number of starts between maintenance activities used in the Claim.

Port Lincoln

The O&M cost per start for Port Lincoln is based on a total cost for a series of maintenance activities divided by the total number of starts which can be performed before performing each of the maintenance activities in the series. Discounting has been ignored. The

²² That is, there is no adjustment for past O&M costs to determine their value today having regard to the time value of money.

Panel's view is that this is a reasonable method for calculating a cost of maintenance incurred per start.

The 2006 Whole of Life Plan for Port Lincoln detailed a similar cost for the major maintenance activities as is detailed in the Claim.

A manufacturer's manual was provided to support the number of starts between maintenance activities used in the Claim. Interpretation of this document provided an explanation of the number of starts used in the Claim.

5.4.2 As adjusted

5.4.2.1 Labour

As noted in Section 5.4.1.10, supporting data was not provided for 2.5 hours worked at Port Lincoln by a contractor. In the absence of any supporting data, these costs have been deducted from the Panel's recommended reimbursement of costs.

As also noted in Section 5.4.1.1, supporting data was not provided for higher labour rates claimed for work at Port Lincoln by an employee on Friday and Saturday 30 and 31 January, and for Friday 6 February. In the absence of any supporting data for higher rates, the lower rates which have been verified are used to calculate the Panel's recommended reimbursement of costs.

The total of these latter two adjustments is a reduction of \$█

5.4.2.2 Start Cost

The determination of intervals for maintenance based on numbers of starts is not necessarily clear cut and does involve some application of judgement. Different plant operators and different experts may come to different conclusions in this area. The view of the Panel is that this aspect of Synergen's Claim is reasonable and is supported by the material provided to the Panel in confidence. Accordingly, the view of the Panel is that this part of the Claim should be allowed.

5.5 Ancillary Services

5.5.1 As claimed

Under the Rules²³ Generators are at times charged for Frequency Control Ancillary Services. A small amount was claimed. Some supporting evidence was provided as to how this amount was calculated. Based on its materiality compared to the cost of verification, the basis for this claim was not investigated. The amount does not appear unreasonable and the Panel recommends that it be accepted.

²³ 3.1.4 (a) (6) of the NER states that ancillary services should, to the extent that it is efficient, be acquired through competitive market arrangements.

Confidential information on this page has been blacked-out by the AEMC. Please see the note on the cover of this Report for details.

5.6 Direct costs overall

The only adjustment recommended is a net reduction of \$[REDACTED] in the labour component of operation and maintenance costs as detailed in Section 5.4.2.1 above.

6 SPOT MARKET INCOME

6.1 As claimed

Revenue data has been directly entered into a spreadsheet for each half-hour for Port Lincoln in total and for each of the three Snuggery units. No supporting calculations are provided.

6.1.1 Snuggery

Revenue is entered for Snuggery 1 for two half-hours on 31 January without corresponding generation amounts. Synergen advised that this discrepancy was due to meter recalibration and it has not been claimed.

Generation is entered for Snuggery 1 for three half-hours on 5 February without corresponding revenue amounts. Synergen advised that this generation was for a test run and has not been claimed.

Otherwise the half-hours including generation match the half-hours including revenue for Snuggery.

AEMO also noted the above discrepancies in Snuggery spot market income.

6.1.2 Port Lincoln

The spot market income²⁴ claimed by Synergen matches the spot market income²⁵ in details provided by AEMO. No further analysis was undertaken.

6.2 As adjusted

The Panel recommends that the claimed spot market income of \$312,718.09 be accepted.

²⁴ Identified as "Pool Revenue"

²⁵ Identified as "Cost (\$)"

7 INITIAL FINANCING COSTS

7.1 As claimed

The Initial Financing Costs claimed is based on the Total Claimable Amount. This will be adjusted if the approved compensation is different.

Synergen states²⁶ that the Initial Financing Costs claimed is based on the interest charged by its bank. The Claim is calculated using an overdraft interest rate, converted to a daily equivalent rate compounding daily.

The Claim for Initial Financing Costs is based on the period starting on the first day after the end of the APP (8 February 2009) and ending on the date of the Claim (31 March 2010).

Section 10.7.1 of the Guidelines state that, in determining financing costs, it is appropriate to have regard to the timing of relevant revenues, had the compensation events not occurred. The Claim does not explain the choice of starting date for accruing financing costs. The Panel considered an alternative approach to determining the starting date for accruing Initial Financing Costs, being to align this with settlement timing provided for in the Rules²⁷. The Panel considers that, when the market is operating normally, financing costs associated with the delay in settlement can be taken into account by a Generator in determining its bids into the market. The effect of the APP however may be to prevent a Generator from recovering these financing costs. The Panel therefore consider that recovery of financing costs arising from timing differences between incurring costs and settlement is a legitimate cost to be recovered and therefore recommend accepting Synergen's approach.

The Panel has accepted 31 March 2010 as the end date for the calculation of Initial Financing Costs.

The Panel reviewed details of Synergen's facility agreement with its bank which was provided in confidence and confirmed the applicable interest rate and cross-checked it against published reference rate for the bank in question during the period covered by the Claim.

The Panel then reviewed spreadsheet calculations provided by Synergen in confidence and corrected the calculation of Initial Financing Costs with respect to the application of the margin above the reference rate which had been inadvertently omitted.

7.2 As adjusted

The Panel recommends that Initial Financing Costs be calculated by accruing interest on an amount representing total allowed direct costs less the total spot market income

²⁶ Confidential Annexure 4

²⁷ In summary, the Rules settlement arrangements provide for weekly Billing Periods and settlement by AEMO of amounts owed 20 Business Days after the end of a Billing period. (Section 3.15.17 NER)

received over the period 8 February 2009 to 31 March 2010. The Panel used the spreadsheet provided by Synergen and calculated the adjusted Initial Financing Costs.

In considering whether the Initial Financing Costs should be allowed in full, the Panel has had regard to delays on the part of Synergen in providing the necessary information to commence assessment of the Claim for compensation, and responding to requests for clarification or additional information from the Panel. While there were certain delays in the provision of information as set out in section 3.1 above, on balance the Panel considers that they were not sufficient to preclude Synergen from recovering the Initial Financing Costs, particularly as the present Claim is the first claim for compensation of a Generator under clause 3.14.6 of the Rules and the Guidelines. Accordingly, the Panel recommends that the AEMC allow the Initial Financing Costs as adjusted.

8 FURTHER FINANCING COSTS

8.1.1 As claimed

Further Financing Costs are claimed based on a pro-rata application of the annual interest rate outlined in Section 7.1, on a simple interest basis. The principal is the Total Claimable Amount. The interest rate is pro-rated based on the period commencing on the day after the date of the Claim and ending on the day the claimant is paid the Total Claimable Amount (if any).

8.1.2 As adjusted

The methodology for calculating the Further Financing Costs has been verified and the Panel recommends that it be adopted by the AEMC.

Further Financing Costs have been calculated for the period between 31 March and 1 October 2010 based on the spreadsheet provided by Synergen. Actual interest rates were updated by Synergen and have been confirmed by the Panel. Financing costs between the date of this report and the expected settlement date of 1 October have been estimated based on current interest rates. This will need to be adjusted if interest rates change in this period.

9 COSTS

Clause 3.14.6(q) of the Rules allows the AEMC to recover costs incurred by the AEMC or the Panel from a claimant. Synergen submits (and the Panel agrees) that the discretion of the AEMC in this regard must be exercised in a manner which is consistent with the objects on which clause 3.14.6 of the Rules is based. The AEMC has amplified and explained those objects in the Guidelines.

Synergen submits that, in the present Claim, the AEMC should not exercise its discretion to recover costs incurred by the AEMC or the Panel from Synergen:

“The Claimant submits that the AEMC should not exercise the discretion under clause 3.14.6(q) of the Rules to recover all or any part of the costs incurred by the AEMC or the Panel in respect of the Claim for the following reasons:

- (a) *The costs should be considered as ordinary costs of the electricity market operations*

9.1.1.1 *The costs incurred in the course of determining a claim under clause 3.14.6 of the Rules should be considered to be the ordinary costs of the operation of the electricity market, for the following principal reasons:*

- (i) In accordance with the Guidelines and the Rules, the objectives of the compensation arrangements in clause 3.14.6 of the Rules are, *inter alia*, to provide an incentive for market participants to continue to supply energy during an administered price period, and to ensure market participants are not disadvantaged by continued participation in the market during high stress periods.²⁸
- (ii) The costs that will be incurred by the AEMC and the panel in connection with the procedure for a market participant to claim compensation by reason of the application of an administered price cap during an administered price period, are costs associated with a prescribed procedure under the rules that a claimant must follow in order to be eligible to be paid the compensation to which it is entitled under the Rules.
- (iii) The objective of encouraging Scheduled Generators, Scheduled Network Service Providers and other market participants to invest in plant that provides services during peak periods would be undermined if an applicant for compensation under clause 3.14.6 of the Rules were required to pay the costs of the mandatory procedure established under that clause in order to recover compensation to which it is entitled.

The payment of compensation should be considered to be a normal part of the operation of the NEM and any compensation payable to a market participant

²⁸ AEMC 2009 *The Determination of Compensation Following the Application of the Administered Price Cap, Market Price Cap, Market Floor Price or Administered Floor Price, Guidelines*, 30 June 2009, Sydney, Section 5.

should be seen as the costs and expenses of AEMO carrying out its functions or powers under the Rules, unless it can be demonstrated that the claimant has submitted a vexatious, frivolous or spurious claim, or that the claimant's conduct otherwise warrants the AEMC recovering its costs. In such a situation, the AEMC would be justified in exercising the discretion conferred to it under clause 3.14.6(q)."

In general terms, the Panel agrees with this part of Synergen's submissions. The submissions leave open the nature of a claimant's conduct which might warrant the AEMC recovering its costs or those of the Panel (or part of them) from the claimant.

In the present case, there is no suggestion that the Claim is vexatious, frivolous or spurious. Nonetheless, as outlined in Sections 1.1 and 3.1, Synergen amended its claim several times and was required to supplement the information substantiating the Claim on two occasions. This has increased the costs which the AEMC and the Panel would have incurred if no amendment had been required and if all information had been provided with the filing of Synergen's claim.

The Panel has considered whether Synergen should be required to pay these additional costs. Given, however, that the Claim is the first to be made under the relevant Rules and Guidelines, the Panel has decided on balance that some uncertainty probably existed about what was expected of a claimant. In these circumstances, the Panel recommends that the AEMC not seek to recover its costs or those of the Panel from Synergen in the present Claim. Future claimants should, however, derive guidance from the present Claim and seek to provide all information likely to be required by a panel at the time of submitting a claim to minimise the costs incurred by the AEMC and the panel and to avoid payment of unnecessary costs being sought from claimants.

10 CONCLUSIONS

10.1 Total Compensation Amount

Table 10.1 shows the Panel's method of calculation of the Total Compensation Amount. The amount claimed is set out in Table 10-1, compared with the recommended reimbursement, the difference and a brief comment on the reason for any difference. Detailed discussion is set out in the section relating to each item of cost.

The Total Compensation Amount is estimated as of 1 October 2010 which is assumed to be the date when the final settlement payment is made by AEMO. Further financing costs have been estimated based on current interest rates and will need to be adjusted if interest rates change in the period to 1 October.

Table 10-1 Claim compared to recommended reimbursement

	As claimed	Recommended reimbursement	Difference	Comment
Total Direct Costs	Confidential	Confidential	(\$██████)	Decrease due to inadequate verification
Total Pool Revenue Received	(\$312,718.09)	(\$312,718.09)		
Net Claimable Amount	Confidential	Confidential	(\$██████)	As above
Initial Financing Costs²⁹	Confidential	Confidential	\$██████	In the preparation of the final report, an error has been identified in the interest rate used in the calculation of the claimed initial financing costs. This error was not identified by the Panel in the draft report. The difference

Confidential information on this page has been blacked-out by the AEMC. Please see the note on the cover of this Report for details.

²⁹ Financing Costs for period 8 February 2009 to 31 March 2010

	As claimed	Recommended reimbursement	Difference	Comment
				between the claimed and recommended reimbursement amount is accounted for by the correct interest rate, offset by calculating the financing costs on the lower recommended Net Claimable Amount.
Further Financing Costs ³⁰	To be determined	Confidential (Estimate) ³¹		Calculation of estimated further financing costs as per Synergen spreadsheet with updated interest costs provided by Synergen and confirmed by the Panel.
Total Compensation Amount ³²	Confidential Plus Further Financing Costs	\$130,486.94 (Estimate) ³³		

10.2 Allocation of the Total Compensation Amount to trading intervals

The AEMC requested the Panel to allocate the Total Compensation Amount to trading intervals throughout the APP. In order to do so, costs needed to be allocated to trading intervals for each power station. Spot Market Income is already allocated to trading intervals.

Fuel costs are the most material cost and are incurred generally proportional to generation, subject to start-up fuel and variations in sent out heat rate. As a reasonable simplification fuel costs were therefore allocated across trading intervals for each power station, in proportion to the energy exported in each trading interval.

³⁰ Further Financing Costs for period between 31 March and 1 October 2010

³¹ The estimate is based on current interest costs being projected forward to 1 October. This amount would need to be adjusted if interest rates change in the period up to 1 October.

³² Forecast as at 1 October 2010

³³ See Footnote 35

Start costs are the next most material cost and are incurred because of starts being required during the APP. As a simplification, for each power station, start costs were therefore allocated across trading intervals in proportion to the number of units running which had been required to start during the APP. Because some units were already running at the start of the APP, the relevant start costs were assumed to be recovered in bid prices prior to the APP, and therefore no start costs were allocated for those trading intervals.

Labour costs are a very small amount and were advised by Synergen as being required as a consequence of the power stations running. As a simplification, for each power station, labour costs were therefore allocated on a pro rata basis across trading intervals where the power station was running. Ancillary Services costs were allocated on the same basis.

Finance costs are a relatively small amount and are incurred as a lump sum as a consequence of the delay in receiving compensation. Finance costs were allocated to each power station in proportion to their direct costs, and then on a simple pro rata basis across the trading intervals when the power station was running.

The compensation for each trading interval was then calculated as the difference between the total of the above costs, and the Spot Market Income, for each trading interval, for each power station.