



05 June 2008

Mr John Tamblyn
Chairman, Australian Energy Markets Commission
PO Box A2449
Sydney South
NSW. 1235

By email (submissions@aemc.gov.au)

Dear Dr Tamblyn,

Proposed National Electricity Amendment (Confidentiality Arrangements in Respect of Information Required for Power System Studies) Rule 2009 - Request for Submissions on a Specific Issue - Explanatory Note - ERC0062

Roaring 40s welcomes the opportunity to respond to the request for Submissions and agrees on the importance of effective transitional arrangements to ensure the new information disclosure arrangements are effective and efficient.

Roaring 40s has serious concerns around the proposed clause 11.25(b)(i) as it provides NEMMCO the right to “deem” currently confidential information to be a “releasable user guide”, so removing the existing protection of intellectual property.

This poses a substantial threat to high value intellectual property currently held by NEMMCO. Roaring 40s is strongly of the view that this threat of damage to wind turbine developers and manufacturers is of no benefit in that the other provisions of proposed clause 11.25(b) ensure the workability of the information disclosure regime by requiring generators to provide a releasable user guide by 29 May 2009 or provide consent for NEMMCO to use previously supplied information. It is noted that the 29 May deadline may prove challenging for some owners or suppliers of generation and a longer period may be appropriate.

Any move to retrospectively strip away protection for confidential information will be viewed by market participants as a substantial regulatory risk matter and will undermine the confidence of parties providing information to NEMMCO into the future. The National Electricity Objective is progressed when NEMMCO and the network service providers have the best possible information with which to plan and operate the NEM in a reliable and efficient manner. To achieve this it is also essential that providers of hi-technology generators have confidence that they can operate in the NEM without placing high value intellectual property at risk. This can only be achieved if developers and manufactures can fully trust the regulatory arrangements to provide ongoing protection of intellectual property.

Roaring 40s is aware of arguments that information provided prior to the National Electricity Amendment (Technical Standards for Wind and other Generation Connections) Rule 2007 should not contain sensitive intellectual property. This is incorrect. Under NEM connection arrangements, NEMMCO has the power to cause

Roaring 40s Renewable Energy Pty Ltd

GPO Box 1484 | Hobart | Tasmania | 7001 | Australia

Telephone +61 3 6213 4301 | Facsimile +61 3 6213 4300

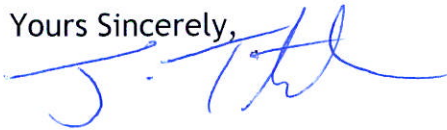
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substantial loss of production from connecting generators by making registration (and hence commissioning) conditional on provision of sensitive information. Under these conditions, NEMMCO has obtained highly sensitive information from connecting parties through their ability to apply dis-proportionate financial stress. As such the historical provision of this data is in no means indicative of lower levels of sensitivity or intellectual property value. Neither is it indicative that such information is now freely available in the public domain.

In the Rule Determination - National Electricity Amendment (Technical Standards for Wind and other Generation Connections) Rule 2007 (P.91 paragraph 5), the right of NEMMCO to release information previously provided under clause 3.13.3(k)(1)(i) and (ii) was specifically revoked. The basis for this decision was given as "...the Commission considers it appropriate to treat new and existing generators in the same manner." Roaring 40s suggest that the AEMC should be guided by these considerations in determining the transitional arrangements in this instance and ensure that all generators are afforded the same level of protection for confidential information, irrespective of when this information was provided. This can be done by removing clause 11.25(b)(i) from the draft rule.

We thank you for the opportunity to participate in this Rule change. Please do not hesitate to contact Andrew Jones (Manager Market and Regulation) on 0400 537 944 if we can clarify or assist with any of the above.

Yours Sincerely,



John Titchen
Business Development Manager