



Thursday 4 June 2015

Mr Chris Spangaro  
Senior Director  
Australian Energy Market Commission  
Level 6, 201 Elizabeth Street Sydney  
NSW, 2000  
By electronic lodgement

Dear Mr Spangaro,

**RE: Compensation arrangements after an administered price cap and administered floor price (REF ERC0176)**

GDF SUEZ Australian Energy (GDFSAE) appreciates the opportunity to comment on the Australian Energy Market Commission (AEMC) consultation paper – Compensation Arrangements following application of an Administered Price Cap and Administered Floor Price (Consultation Paper).

In 2009, Synergen Power Pty Ltd (Synergen) successfully claimed compensation following application of an administered price cap (APC) or administered price floor (APF). The AEMC's final decision required AEMO to pay to Synergen compensation of \$130,486.94. To GDFSAE's knowledge, the Synergen claim remains the only instance of a compensation claim following application of an APC or APF.

Following completion of the Synergen compensation claim, the AEMC self-initiated a review into arrangements for determining compensation following application of an APC or APF. In May 2011 AEMC published an issues paper and initiated the review with the objective to ensure alignment between the objectives of paying compensation and the rule provisions, and to consider rule changes to remove ambiguities and improve effectiveness of rule clauses 3.14.5 and 3.15.10.

On the key issue of whether compensation payments should contemplate maintaining signals for investment in peaking generation as well as the supply of energy, the AEMC review concluded that the primary purpose of compensation is to maintain incentives for the supply of energy and other services. The AEMC concluded its review by providing a final report and recommendations to the Standing Council on Energy Resources (now Council of Australian Government's Energy Council).

The Council of Australian Government's (COAG) Energy Council has now lodged a rule change request and proposal<sup>1</sup> which acknowledges that the proposed amendments to the rules are based on the AEMC's

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<sup>1</sup> Compensation arrangements following application of an administered price cap and administered price floor, Amendments of the National Electricity Rules – Chapter 3, Rule change request and proposal; 16 October 2013: Standing Council on Energy and Resources (Now COAG Energy Council)

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recommendations arising out of the 2011 review. The industry now finds itself being presented with essentially the same questions that were posed by the AEMC in the 2011 review. The circular nature of this process is highlighted in the Consultation Paper in section 5.1, where the AEMC note that in considering the rule change request, it will reconsider the consultation undertaken in the preceding AEMC review, which led to the COAG rule change in the first place. GDFSAE suggests that this circular process of AEMC review, leading to a rule change request which is then assessed by the AEMC, gives a sense that there is little scope to influence the AEMC's thinking at this time.

Given the close similarity of this Consultation Paper to the previous AEMC review, GDFSAE would refer the AEMC to submissions lodged previously by GDFSAE (previously International Power) and others in July 2011 and January 2013. In those previous submissions, GDFSAE argues that the current rule clause 3.14.6(c)(1)(i) makes it clear that the objective of the payment of compensation following an APC or APF includes to maintain the incentive for generators and other market participants to invest in plant that provides services during peak periods. Therefore, GDFSAE does not support removal of this rule clause as contained in the rule change proposal.

GDFSAE notes that the rule change proposal recognises that the administered price provisions in the rules should not dis-incentivise investment in generation. GDFSAE agrees with this sentiment. Nevertheless, the rule change proposal then goes on to suggest that such disincentive can be avoided simply by "ensuring participants are not forced to make a loss". Whilst GDFSAE agrees that forcing generators to make a loss would be a disincentive, it is not true to say that generators will be incentivised to invest simply by being assured that they will not suffer a loss. GDFSAE believes there is no compelling basis to suggest that avoiding a loss is a sufficient incentive for peaking generator investment.

There is a view that the room for interpretation regarding compensation for investment incentives in the current rule allows for a wider range of circumstances than would be the case under the proposed rule.

In that regard, given the insignificant amount of compensation paid in the fifteen years of the National Electricity Market to date, GDFSAE is not convinced that current rules are not sufficiently robust to meet the needs of the sector, and that AEMC resources could have been better directed. GDFSAE suggests that the AEMC should reconsider whether this change does sufficiently advance the National Electricity Objective.

GDFSAE trusts that the comments provided in this response are of assistance to the AEMC in its deliberations. Should you wish to discuss any aspects of this submission, please do not hesitate to contact me on, telephone, 03 9617 8331.

Yours sincerely,



**Chris Deague**  
Wholesale Regulations Manager