



REVIEW

Australian Energy Market Commission

DRAFT DECISION

Compensation claim from Synergen Power Pty Ltd

Commissioners

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23 June 2010

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About the AEMC

The Council of Australian Governments, through its Ministerial Council on Energy (MCE), established the Australian Energy Market Commission (AEMC) in July 2005 to be the rule maker for national energy markets. The AEMC is currently responsible for rules and providing advice to the MCE on matters relevant to the national energy markets. We are an independent, national body. Our key responsibilities are to consider rule change proposals, conduct energy market reviews and provide policy advice to the Ministerial Council as requested, or on AEMC initiative.

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Executive Summary

Synergen Power Pty Ltd has lodged a claim for compensation under clause 3.14.6 of the National Electricity Rules (NER or Rules) following the application of the Administered Price Cap (APC) during an administered price period (APP) in South Australia between 29 January 2009 and 7 February 2009.

Synergen Power is claiming compensation for the generation output from its Port Lincoln gas turbine and Snuggery power station, both located in South Australia. These generating units are Market Scheduled Generators registered to Synergen Power Pty Ltd.

During a period of high spot market prices in the South Australian electricity market, the National Electricity Market Management Company (NEMMCO) determined that an APP be applied in South Australia commencing the 15:30 hours trading interval on 29 January 2009 and ceasing the 04:00 hours trading interval on 7 February 2009.

During the APP, the APC of \$300/MWh applied for all periods to energy dispatch prices and all market ancillary service prices in South Australia. Synergen Power is claiming for direct costs (and associated financing costs) incurred in operating these generating units during the APP which exceeded the spot market income it received for these generating units during this period.

This claim is being considered by the Australian Energy Market Commission (AEMC or Commission) under clause 3.14.6 of the Rules. Under this clause, the Commission must determine whether compensation is payable, and if so, the amount of compensation payable. Clause 3.14.6 of the Rules indicates that the objective of paying compensation is to maintain the incentive: for scheduled generators, scheduled network service providers and other market participants to invest in plant that provides services during peak periods; and for market participants to supply energy and other services during an APP.

This is the first compensation claim to be considered by the Commission under this clause. The Commission published "The Determination of Compensation Following the Application of the Administered Price Cap, Market Price Cap, Market Floor Price or Administered Floor Price Guidelines" (compensation guidelines) to support the operation of this clause on 1 July 2009.

A three member panel comprising Geoff Swier (Chair), Sibylle Krieger and Bob Graham has been engaged to assess and advise the AEMC on the compensation claim. The Panel has rigorously analysed Synergen Power's compensation claim, and its recommendations to the AEMC are provided in its draft report, dated 14 May 2010.

In this draft decision, the Commission has considered its responsibilities under the Rules and the National Electricity Law (NEL), and taken into account the compensation guidelines and the Panel's draft report. The Commission has decided that compensation is payable by the Australian Energy Market Operator (AEMO) in

relation to Synergen Power's compensation claim, and that the amount payable is \$120 540.01 plus further financing costs that are still to be determined.

The Commission invites written submissions on the Panel's draft report and/or the Commission's draft decision by 21 July 2010.

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1 Background

1.1 Synergen Power's compensation claim

Synergen Power Pty Ltd has lodged a claim for compensation under clause 3.14.6 of the Rules following the application of the APC during an APP in South Australia between 29 January 2009 and 7 February 2009.

Synergen Power is claiming compensation for the generation output from its Port Lincoln gas turbine (2 x 25 MW) and Snuggery power station (3 x 21 MW), both located in South Australia. These generating units are Market Scheduled Generators¹ registered to Synergen Power Pty Ltd.

During a period of high spot market prices in the South Australian electricity market, NEMMCO² determined that an APP be applied in South Australia commencing the 15:30 hours trading interval on 29 January 2009³ and ceasing the 04:00 hours trading interval on 7 February 2009⁴.

During the APP, the APC of \$300/MWh applied for all periods to energy dispatch prices and all market ancillary service prices in South Australia. Synergen Power is claiming for direct costs (and associated financing costs) incurred in operating these generating units during the APP which exceeded the spot market income it received for these generating units during this period.

1.2 Purpose of paying compensation

The Rules identify that the objective of paying compensation under clause 3.14.6 of the Rules is to maintain the incentive: for scheduled generators, scheduled network service providers and other market participants to invest in plant that provides services during peak periods; and for market participants to supply energy and other services during an APP.⁵

As discussed in the Commission's compensation guidelines, the compensation regime provided by the Rules "is just one component of the market's broader Market Price Cap (MPC) - Cumulative Price Threshold (CPT) - Administered Price Cap (APC) mechanism, which, as a whole, provides a comprehensive framework to provide investment signals and manage risks faced by retailers and other market participants."⁶

1 NER clauses 2.2.2 and 2.2.4.

2 Now part of AEMO from 1 July 2009.

3 NEMMCO Market Notice 24605.

4 NEMMCO Market Notice 24884.

5 NER clause 3.14.6(c)(1).

6 Compensation guidelines, section 5, p.3.

Compensation may be payable after a number of hours in which sustained high spot market prices (up to the MPC⁷) breach the CPT and result in an APP in a region. These high spot market prices, together with the levels at which the CPT⁸ and APC⁹ have been set, are intended to provide the necessary investment signals to participants.

The payment of compensation recognises regulatory risk that some participants may face in the market. It also ensures that such participants are not disadvantaged by continuing to participate in the market during high stress periods, such as APPs or other events.

The payment of compensation is consistent with the national electricity objective¹⁰ as, when considered together with the broader MPC-CPT-APC mechanism, promotes efficient investment in, and efficient operation and use of, electricity services to ensure reliability of the national electricity system during high stress events in the market. Providing for compensation to be payable during such high stress events encourages participants to behave in a manner that contributes to the reliable operation of the national electricity system, minimising electricity supply interruptions, which is in the long term interests of consumers.

1.3 Role of the AEMC in determining compensation

Clause 3.14.6 of the Rules provides for compensation due to the application of an administered price cap, market price cap, market floor price or administered floor price. Under this clause, the AEMC must develop and publish compensation guidelines which support the operation of this clause. The AEMC published the first compensation guidelines on 30 June 2009. These guidelines commenced on 1 July 2009.

If an eligible party¹¹ intends to apply for compensation under clause 3.14.6 of the Rules, it must notify AEMO and the AEMC of its intent to claim compensation within five business days of the trading interval in which dispatch prices were adjusted in accordance with clause 3.9.5 of the Rules or notification by AEMO that an APP or period of market suspension has ended.¹²

Following receipt of a notification under clause 3.14.6(b) of the Rules, the AEMC must request the Dispute Resolution Adviser¹³ to establish a three member panel (Panel) to provide advice on the claim. The Panel is selected from the group of persons available

⁷ NER clause 3.9.4(b) currently sets this at \$10 000/MWh, but this will increase to \$12 500/MWh from 1 July 2010.

⁸ NER clause 3.14.1(c) currently sets this at \$150 000, but this will increase to \$187 500 from 1 July 2010.

⁹ Currently set at \$300/MWh for all regions at all times.

¹⁰ Section 7 of the NEL.

¹¹ As specified in NER clauses 3.14.6(a), (a1), (a2) and (a3).

¹² NER clause 3.14.6(b).

¹³ As specified in NER clause 8.2.2(a).

to be appointed to the Dispute Resolution Panel.¹⁴ The Panel provides recommendations to the AEMC as to whether:

- compensation should be payable by AEMO in relation to a claim; and
- if so, the amount of compensation that should be paid.¹⁵

In preparing its recommendations to the AEMC, the Panel must apply the compensation guidelines.¹⁶ In making its decisions on the compensation claim, the AEMC must apply the compensation guidelines unless it is satisfied that there are compelling reasons not to do so¹⁷ and must take into account the recommendations of the Panel.¹⁸

The AEMC may also recover from a claimant any costs incurred by the AEMC and the Panel in carrying out their functions under clause 3.14.6 of the Rules, in respect of the claim for compensation. If costs are to be recovered, the AEMC may require the claimant to pay all or a proportion of those costs prior to the claim being considered or determined.¹⁹

1.3.1 Timetable for publication of Commission draft decision

Under clause 3.14.6(i) of the Rules, the Commission is required to publish its draft decision not later than twenty business days after receiving the Panel's draft report. The draft decision on this claim was due to be published by 11 June 2010. As this is the first compensation claim to be considered under this clause, the Commission has taken additional time to consider a number of material issues relating to the claim, including the circumstances in which a claimant is eligible to make a claim with respect to certain trading intervals, and in particular, the meaning of the term "dispatch offer" under clause 3.14.6(a) of the Rules. This is discussed further in section 3.3.

¹⁴ As established under NER clause 8.2.6A.

¹⁵ NER clause 3.14.6(g).

¹⁶ NER clause 3.14.6(l).

¹⁷ NER clause 3.14.6(p).

¹⁸ NER clauses 3.14.6(m) and (o).

¹⁹ NER clause 3.14.6(q).

2 AEMC process for assessing this compensation claim

This compensation claim from Synergen Power Pty Ltd is the first compensation claim to be considered by the AEMC under clause 3.14.6 of the Rules.

2.1 The Panel

As required by the Rules, on 28 July 2009 the Commission requested that the National Electricity Market (NEM) Dispute Resolution Adviser establish a three member panel to assess Synergen Power's compensation claim. The Panel established to assess Synergen Power's compensation claim comprises Geoff Swier as the Chair, Sibylle Krieger and Bob Graham. The Panel has been engaged since 25 September 2009 to assess this compensation claim.

The Panel has worked closely with the AEMC to assess the information provided by Synergen Power and AEMO in accordance with the compensation guidelines, and advised when clarification of information was required. The Panel advised the AEMC when all the information provided by Synergen Power was sufficient for it to assess the compensation claim and prepare its draft report.

The Panel has been rigorous and meticulous in its analysis of Synergen Power's compensation claim. The Commission is confident that the Panel's draft recommendations are well considered, thorough and robust. The Panel provided its draft report on Synergen Power's compensation claim to the Commission on 14 May 2010. The Panel's draft report meets its obligations under clause 3.14.6(g) of the Rules. Provision of the Panel's draft report was delayed while the treatment of confidential information was considered.²⁰

2.2 Information requirements from Synergen Power

Synergen Power provided information in accordance with the requirements in the compensation guidelines²¹ on 18 August 2009. However, the Commission recognised that the timing provided in the Rules for assessing a compensation claim does not provide for any delays or extensions of time in the process. In practice, this meant that there would not be any opportunity to verify or clarify the details of Synergen Power's claim, once the timing in the Rules commenced. Accordingly, the Commission corresponded with Synergen Power to ensure that the information provided in support of its claim, including evidence using normal business documents to verify its claim, was sufficient for the Panel to assess the claim prior to formally commencing the assessment process. The Commission commenced formal assessment of the compensation claim on 24 March 2010. A chronology of the process to date is provided in Appendix A.

²⁰ In accordance with NER clause 3.14.6(h)(1), the Panel was to provide its draft report to the Commission by 10 May 2010.

²¹ Compensation guidelines, section 9.1.1, p.7.

2.3 Information requirements from AEMO

AEMO provided information in accordance with the requirements in the compensation guidelines²² on 11 September 2009. Further clarification of some of the information was provided on 18 November 2009.

2.4 Confidentiality

In this claim, Synergen Power has made a wide claim for confidentiality - seven of the eight Annexures to the details of its claim are subject to a claim of confidentiality. The body of its claim refers to the contents of each of the Annexures, namely: Annexures 1 and 8 - discusses alternative operating scenarios during the APP; Annexure 2 - calculation of the total claimable amount in accordance with the compensation guidelines; Annexure 3 - particulars of its direct costs in accordance with the categories of eligible costs in the compensation guidelines; Annexures 4 and 6 - calculation of its financing costs; Annexure 5 - details of its direct costs; and Annexure 7 - its spot market income during the APP (not confidential). In addition, all further information requested by the AEMC to verify and substantiate Synergen Power's compensation claim are also subject to a claim of confidentiality.

In assessing this claim, the Commission has assessed the legal basis for the confidentiality section of the compensation guidelines, and determined that this section is inconsistent with the AEMC's obligations to protect confidential information under the Australian Energy Market Commission Establishment Act 2004 (SA) and the NEL. This is because in the present circumstances, there is no specific head of power given to the AEMC in the NEL or the Rules to enable it to decide whether or not information given to it in confidence by a claimant is confidential information. In the absence of such a power, the AEMC has a statutory obligation to take all reasonable measures to protect information given to it in confidence.²³ The Commission advised the Panel of this situation on 7 May 2010 and requested it not to take into account section 4 of the compensation guidelines in its considerations. Therefore, the Commission accepts the confidentiality of Synergen Power's Annexures and all further information provided to support and substantiate its claim.

The Commission intends to commence the process to amend the compensation guidelines shortly, in accordance with the transmission consultation procedures, to ensure that the section on confidentiality is consistent with its legislative powers and obligations. The Commission also recognises that its obligation to protect all information provided to it in confidence in connection with compensation claims under clause 3.14.6 of the Rules may impact on future public consultation under that Rule. In particular, the Commission notes that broad confidentiality claims by claimants may prevent stakeholders from being able to comment effectively on the Panel's draft report or the AEMC's draft decision under clause 3.14.6 of the Rules.

²² Compensation guidelines, section 9.1.2, pp.7-8.

²³ As provided in section 24 of the AEMC Establishment Act and section 31 of the NEL.

In view of this, the Commission intends to initiate a review of clause 3.14.6 of the Rules to consider, amongst other things, the role of the AEMC and the Panel in determining compensation, the role of the consultation process in the light of the limits on the AEMC's power to disclose information relating to compensation claims, the circumstances in which a claimant is eligible to make a claim and the flexibility of timing associated with the processing of compensation claims.²⁴

2.5 Consultation on draft documents

In accordance with clause 3.14.6(i) of the Rules, the Commission invites written submissions on the Panel's draft report and the Commission's draft decision by 21 July 2010.

Submissions should quote project number "EPR0016" and may be lodged online at www.aemc.gov.au or by mail to:

Australian Energy Market Commission

PO Box A2449

SYDNEY SOUTH NSW 1235.

²⁴ Under section 45 of the NEL, the AEMC may conduct a review into the operation and effectiveness of the Rules.

3 Assessment of Synergen Power's claim

In assessing Synergen Power's claim for compensation, the Commission has had regard to:

- its responsibilities under clause 3.14.6 of the Rules;
- its powers under the NEL;
- the compensation guidelines;
- the information and evidentiary documents provided by Synergen Power to support its claim for compensation, in accordance with the compensation guidelines;
- the information provided by AEMO, in accordance with the compensation guidelines; and
- the Panel's recommendations in its draft report.

3.1 Market event

This claim for compensation relates to the application of the APC during an APP in South Australia commenced on the 15:30 hours trading interval on 29 January 2009 and ceased on the 04:00 hours trading interval on 7 February 2009. For the purposes of this claim, this is the APP to which the claim relates.

3.2 Notification of intent to claim compensation

On 13 February 2009, Synergen Power provided notification of its intent to claim compensation in relation to this APP for its Port Lincoln and Snuggery generating units in South Australia. This notification was received within the prescribed timeframe in the Rules.²⁵

There were no compensation guidelines in place when this notification of intent to claim compensation was received. As part of its notification, Synergen Power requested that processing of its claim be delayed until the compensation guidelines were made. The compensation guidelines, amongst other matters, sets out the information that must be provided by a claimant to enable its compensation claim to be assessed by a panel to make its recommendations and the AEMC to make its decisions on compensation.

²⁵ NER clause 3.14.6(b).

3.3 Eligibility

Synergen Power is registered with AEMO as a Generator and is a party eligible to claim compensation with respect to its market scheduled generating units. Synergen Power is claiming compensation in relation to its Port Lincoln Gas Turbine (2 x 25 MW) and Snuggery Power Station (3 x 21 MW). AEMO has confirmed that these market scheduled generating units were dispatched during the APP.

As Synergen Power raises in its compensation claim and the Panel discusses in section 3.2 of its draft report, some clarification was needed on the term "dispatch offer". Synergen Power submitted that clause 3.14.6(a) of the Rules "should be read so that the reference to '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 within price bands made in accordance with clause 3.8.22 and 3.8.22A of the Rules."²⁶.

The Panel agreed with Synergen Power 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'."²⁷

The Commission has also considered the interpretation of the term "dispatch offer" and whether the reference to this term within clause 3.14.6(a) of the Rules includes any variation that has been made to an original dispatch offer through a rebid. The Commission notes that to the extent that rebids are taken into account in the interpretation of the term dispatch offer, then where those rebids are less than the resultant spot market price in a trading interval (capped at the APC), that trading interval would not satisfy the eligibility criteria for which a generator may claim compensation under clause 3.14.6(a) of the Rules.

The Commission considers that there is some ambiguity as to whether rebids should be taken into account in the interpretation of the term "dispatch offer" for the purposes of determining eligibility for compensation. This ambiguity results from the current drafting of clause 3.14.6(a) of the Rules. Having considered this issue, the Commission accepts that the most appropriate interpretation of clause 3.14.6(a) is that rebids should not be included in the assessment of eligible trading intervals for which compensation may be claimed. Instead, eligibility should be based on the original dispatch offer made in advance. However, in order to address this ambiguity, the Commission intends, as part of its review of clause 3.14.6 of the Rules, to consider the eligibility criteria for generators claiming compensation and in particular whether rebids should be taken into account.

²⁶ Synergen Power, Amended and Restated, and Further Amended and Restated, Submission of Particulars of a Claim dated 18 August 2009 pursuant to Paragraph (a) of Clause 3.14.6 of the National Electricity Rules, p.3.

²⁷ Expert Panel, Draft 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, 14 May 2010, section 3.2.

In view of these conclusions, the Commission considers that Synergen Power is eligible to claim compensation in accordance with clause 3.14.6(a) of the Rules in respect of its Port Lincoln and Snuggery generating units during the APP in South Australia, for all the trading intervals which it generated electricity in accordance with dispatch instructions from AEMO.

3.4 Direct costs

Synergen Power is claiming compensation for the direct costs it incurred during the APP. The direct costs were not itemised by trading interval, but provided as aggregate totals for the categories of cost identified in the compensation guidelines methodology - fuel costs, operation and maintenance, and ancillary services.

The Panel has scrutinised the costs incurred by Synergen Power in detail. Proportionate to the value of the costs being claimed, the Panel requested business documents to substantiate the calculation of these costs. The Commission is confident that, given the Panel's expertise, its analysis of the direct costs has been very comprehensive. The Commission, therefore, accepts the Panel's recommendation of the total direct costs that should be paid to Synergen Power. The Commission notes that the Panel's recommendation on the amount of direct costs that should be payable to Synergen Power is equal to the amount claimed by Synergen Power less a small deduction for labour costs that were unable to be verified.

3.5 Opportunity costs

Synergen Power is not claiming any opportunity costs.

3.6 Spot market income

The Panel has reviewed the spot market income claimed by Synergen Power, and confirmed this income value with information provided by AEMO. There was a small discrepancy in the spot market income for a total of five half-hour periods for Snuggery, which Synergen Power has clarified are not being claimed. The Commission, therefore, accepts the Panel's recommendation of spot market income of \$312 718.09 was paid to Synergen Power during the relevant APP.

3.7 Financing costs

Synergen Power is claiming both initial financing costs and further financing costs, based on its calculated Total Claimable Amount²⁸. The initial financing costs are claimed for the period commencing on the first day after the end of the APP (i.e. 8 February 2009) and ending on the date that the final information to support its claim was submitted (i.e. 31 March 2010, being the date that Synergen Power submitted its final particulars in support of its claim). The further financing costs are claimed for

²⁸ As calculated in accordance with section 10.1 of the compensation guidelines.

the period commencing on the day after the final information to support its claim was submitted (i.e. 1 April 2010) and ending on the day the claimant is paid compensation, if any.

Section 10.7.1 of the compensation guidelines provides for "reasonable financing costs in respect of the passage of time between the event occurring to which the compensation claim relates and any compensation being awarded... In determining such costs, the Commission would also take into account any unreasonable delays from the claimant in providing the necessary information to commence assessment of the claim for compensation, or responding to requests for clarification or additional information from the panel or the Commission."²⁹

The Commission notes the Panel's comments that Synergen Power should be allowed to recover in full the initial financing costs, as recalculated by the Panel. The Commission recognises that this is the first compensation claim it has assessed under clause 3.14.6 of the Rules, and there has been some uncertainty in the practical application of the process as well as delays in receiving the necessary detailed documentation to substantiate the claim. The Commission accepts that this first process has been a learning experience for all parties, and accepts that Synergen Power needed the time taken following requests for additional information to assemble the evidentiary documents requested. The Commission proposes to allow financing costs to Synergen Power as part of its compensation claim.

The Panel considered an alternate approach to determining the starting date for accruing initial financing costs, but concluded by accepting Synergen Power's approach. The Panel also accepted the end date for the calculation of the initial financing costs. The Panel then calculated its recommended initial financing costs based on the slightly lower total direct costs calculated above less the total spot market income. The Commission considers the Panel's recommendation to be well reasoned and accepts the total initial financing costs calculated by the Panel.

The Panel has recommended that the Commission adopt Synergen Power's methodology for calculating the further financing costs. The Commission accepts the Panel's recommendation on this matter.

3.8 Any other compensation

Synergen Power advised that it has not made, and is not considering making, any other claims for compensation under the Rules during the APP for which this claim relates. AEMO has confirmed that there are no directions, and hence no possible claims for compensation, that relate to the claimant during this APP.

²⁹ Compensation guidelines, section 10.7.1, p.16.

3.9 Recovery of costs

In assessing Synergen Power's compensation claim, the Commission decided on the principles it will apply in exercising its discretion to recover processing and administrative costs from a claimant.³⁰ Where the Commission considers that a compensation claim is not well-founded or where the conduct of the claimant has not supported an efficient process for resolving the claim, the external costs of processing the claim for compensation, namely the Panel's costs, will be shared equally with the claimant. The Commission considers that these principles are consistent with the intent of clause 3.14.6 of the Rules.

The Commission advised Synergen Power of these principles on 23 October 2009 and sought confirmation from Synergen Power that it was willing to accept these conditions before processing of the claim proceeded. Synergen Power advised on 27 November 2009 that it accepted these conditions, but requested an opportunity to make a submission if any costs are to be recovered from it. The Commission confirmed that at the end of the process for assessing its claim for compensation, if the Commission considers that any processing and administrative costs should be recovered from Synergen Power, it will be advised and given an opportunity to make a submission on those costs.

The Commission is mindful of the purpose of paying compensation under clause 3.14.6 of the Rules and Synergen Power's participation during the APP which, AEMO advised, contributed to the reliable operation of the NEM during this high stress event. The Commission also recognises that this is the first compensation claim it has assessed under clause 3.14.6 of the Rules, and that there has been some uncertainty in the practical application of the process and the extent of detailed documentation needed to substantiate the claim. The Commission has also taken into account Synergen Power's submission on this matter, as well as the Panel's views on whether costs should be recovered. The delays in receiving sufficient information from Synergen Power to assess the claim and the additional Panel costs incurred have also been considered.

Having taken these factors into account, the Commission does not, in this instance, intend to recover costs from Synergen Power for this compensation claim. For future compensation claims, each will be assessed on a case-by-case basis in relation to the recovery of costs.

³⁰ As provided by NER clause 3.14.6(q).

4 Conclusions

In relation to Synergen Power's compensation claim, clause 3.14.6(i)(2) of the Rules requires the Commission to make its draft decision on whether:

- compensation should be payable by AEMO in relation to Synergen Power's compensation claim; and
- if so, the amount of compensation that should be paid.

4.1 Should compensation be payable?

The Commission has decided that compensation should be payable by AEMO in relation to Synergen Power's compensation claim.

The Commission is satisfied that:

- Synergen Power is eligible to claim compensation in respect of its Port Lincoln and Snuggery generating units during the APP in South Australia between the 15:30 hours trading interval on 29 January 2009 and the 04:00 hours trading interval on 7 February 2009, for all the trading intervals which it generated electricity in accordance with dispatch instructions from AEMO;
- Synergen Power notified the AEMC and AEMO of its intention to claim compensation in accordance with clause 3.14.6(b) of the Rules;
- the information provided by Synergen Power to support and substantiate its claim complies with the compensation guidelines;
- the direct costs claimed by Synergen Power are consistent with the categories of cost permitted in the compensation guidelines;
- the proposed methodology applied by Synergen Power to calculate compensation is consistent with the compensation guidelines; and
- the payment of compensation to Synergen Power in relation to this APP is consistent with the objective of paying compensation to maintain the incentive for scheduled generators to invest in plant that provides services during peak periods and to supply energy and other services during an APP.

4.2 Amount of compensation that should be paid?

The Commission has decided that Synergen Power should receive \$120 540.01 plus further financing costs to be calculated from 1 April 2010 up to and including the day compensation is paid.

This total value is calculated by:

- taking the total direct costs incurred by Synergen Power, as calculated by the Panel; and
- deducting the spot market income received i.e. \$312 718.09;
- which gives the net claimable amount; and
- then adding the initial financing costs, as calculated by the Panel;
- which gives the total compensable amount of \$120 540.01.

The further financing costs will be calculated on the net claimable amount above, based on the Panel's recommendation.

The Commission expects to publish its final decision on Synergen Power's compensation claim in early September 2010.³¹ Given this timing, the Commission will seek advice from AEMO on the day that this compensation would be paid to Synergen Power, to calculate the further financing costs.

³¹ In accordance with the timing provided in NER clause 3.14.6.

Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
APC	Administered Price Cap
APP	administered price period
Commission	See AEMC
compensation guidelines	The Determination of Compensation Following the Application of the Administered Price Cap, Market Price Cap, Market Floor Price or Administered Floor Price Guidelines
CPT	Cumulative Price Threshold
MPC	Market Price Cap
NEL	National Electricity Law
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company
NER	National Electricity Rules
Panel	A three member panel selected from the group of persons available to be appointed to the Dispute Resolution Panel
Rules	See NER

A Chronology of the compensation assessment process

The following table sets out the timing of Synergen Power's compensation assessment process, to date.

Date	Event
15:30 hours 29 January 2009 to 04:00 hours 7 February 2009	An APC is applied in South Australia.
13 February 2009	Synergen Power provides notification of its intent to claim compensation in relation to the APC applied in South Australia for its Port Lincoln and Snuggery generating units.
1 July 2009	The Determination of Compensation Following the Application of the Administered Price Cap, Market Price Cap, Market Floor Price or Administered Floor Price Guidelines (compensation guidelines) commences.
28 July 2009	AEMC requests that the Dispute Resolution Adviser establish a three member panel to assess Synergen Power's compensation claim.
18 August 2009	Synergen Power provides information to support its compensation claim, in accordance with the compensation guidelines.
25 September 2009	Three member panel comprising Geoff Swier (Chair), Sibylle Krieger and Bob Graham engaged to assess the compensation claim.
23 October 2009	AEMC advises Synergen Power of the Commission's principles that it will apply in exercising its discretion to recover costs from a claimant. Synergen Power to advise whether it accepts these conditions before claim can proceed.
October/November 2009	Panel advises that the information provided by Synergen Power is insufficient to assess the claim. Additional information requirements to support the claim were discussed between the Panel and Synergen Power.
27 November 2009	Synergen Power accepts the Commission's principles for exercising its discretion to recover costs from a claimant, but requests an opportunity to make a submission if any costs are to be recovered from it.
4 December 2009	AEMC requests Synergen Power to provide additional information and documents, as discussed with the Panel, to substantiate its claim.
6 January 2010	AEMC requests Synergen Power to advise when the additional information and documents requested on 4 December 2009 will be provided.

Date	Event
27 January 2010	Synergen Power advises that the additional information and documents will be provided on 12 February 2010.
12 February 2010	Synergen Power provides the additional information and documents in accordance with the AEMC's request of 4 December 2009.
19 February 2010	Panel advises that the information provided by Synergen Power is still insufficient to assess the claim. AEMC requests further additional information from Synergen Power, to be provided by 12 March 2010.
12 March 2010	Synergen Power provides further additional information to support its claim, in accordance with the AEMC's request of 19 February 2010.
24 March 2010	Panel advises that the information provided by Synergen Power is now sufficient to assess the claim. The compensation assessment process formally commences on this date.
31 March 2010	Consistent with the information provided previously, Synergen Power formally provides its further amended and restated Submission of Particulars of the Claim.
15 April 2010	Panel advises Synergen Power that there is an arithmetic error in its calculation of the compensation amount in its further amended and restated Submission of Particulars of the Claim. Opportunity is provided for Synergen Power to submit a version of its further amended and restated Submission of Particulars of the Claim correcting this error.
19 April 2010	Synergen Power provides a new version of its further amended and restated Submission of Particulars of the Claim, correcting the arithmetic error - still dated 31 March 2010.
7 May 2010	AEMC advises the Panel that section 4 of the compensation guidelines is inconsistent with the AEMC's obligations to protect confidential information under the AEMC Establishment Act and the NEL, and requests the Panel not to take into account this section of the compensation guidelines in its considerations.
14 May 2010	Panel provides its draft report to the AEMC.