Mr Richard Owens
Australian Energy Market Commission
Level 5
201 Elizabeth Street
Sydney NSW 2000

20 July 2012

Dear Richard,

Re AEMC reference EMO0024: NEM financial market resilience

The Private Generators listed in the side bar appreciate the opportunity to comment on the AEMC consultation into National Electricity Market (NEM) financial market resilience.

We agree with the AEMC initial view that the financial relationships and markets that underpin the efficient operation of the NEM are generally robust, noting that the NEM is a mature market, with well-established participant processes and procedures, and prudent regulatory mechanisms.

We also concur with the point raised by SCER in its request for advice which was reiterated by the AEMC that "individual market participants need to manage their own commercial and business decisions". This is an important point and highlights the fact that flexible and effective financial hedging arrangements are of critical importance to individual market participants in managing their commercial outcomes. It is therefore vital that the effectiveness of the current robust arrangements not be undermined.

In reviewing NEM financial resilience, it is useful to examine actual NEM performance as well as to compare with experiences in other comparable markets overseas.

In examining actual NEM performance, we note that there have been a number of instances over the history of the NEM where generator businesses have suffered unplanned shutdowns of entire power stations, and major transmission outages have occurred. These have occurred for a number of reasons including industrial disputes, fire, flood and drought. Despite these events, they have not led to any generator insolvency and there are only two instances where a NEM retailer default has triggered the Retailer of Last Resort (ROLR) process: Energy One in 2007; and Jackgreen in 2009.

We agree in general with the conclusions of the AEMC, that the ROLR mechanisms represent the most likely area of the NEM design where financial contagion risks could arise. It is noted that the new NEM-wide ROLR provisions envisaged in the National Electricity Customer Framework (NECF) have not been implemented in all jurisdictions as was expected on 1 July 2012. However, it is anticipated that these new NECF arrangements will eventually be applied in all NEM regions, and should therefore be the focus of any consideration of the adequacy of the ROLR provisions.

While the NECF ROLR provisions are new and untested, the consequences of the arrangements not working effectively are high enough to warrant their review now.

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Alinta Energy

Energy Brix

Intergen

International Power GDF Suez

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Since ROLR events occur rarely (hopefully never), it would be prudent to carry out some form of industry-wide desktop trial of a hypothetical ROLR event. This might help to identify the potential shortcomings of the ROLR provisions, and suggest areas of improvement, if needed.

Any recommendations to amend or replace the existing arrangements need to be subject to a full cost benefit analysis. This assessment needs to have regard to the implementation costs already incurred by the market in meeting the newest requirements.

However, any options would need to ensure that an attempt to provide relief to a designated ROLR does not simply shift the problem to another part of the market and does not unfairly punish affected customers.

In looking at overseas markets, it is useful to look at examples such as the Californian energy crisis to understand if any key lessons can be learned and applied to the NEM. Following the Californian energy crisis there were numerous reviews and investigations to understand whether the NEM was vulnerable to similar outcomes. The broad conclusions were that the Californian outcomes were largely due to a number of structural issues which do not directly apply to the NEM.

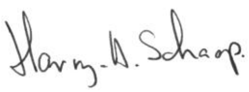
AEMC has noted two other reviews underway at present that relate to NEM financial market resilience:

- ASIC review of the financial requirements applying to electricity derivatives[1]; and
- Commonwealth Treasury review on options for reforms to over-the-counter contracts[2].

It is of concern that there are at least three separate reviews underway, each of which could impose additional constraints and costs on NEM financial arrangements, and also raises the potential for outcomes which are contradictory or overlapping. We therefore urge the AEMC to continue to keep abreast of the reviews by ASIC and the Commonwealth Treasury.

Should you have any enquiries regarding this matter please do not hesitate to contact me on 03 9499 4249 or 0413 623 043 or by email Harry.Schaap@tpg.com.au.

Yours sincerely



Dr Harry Schaap
(on behalf of the listed generators)

[1] ASIC, *Consultation Paper 177: Electricity derivative market participants: financial requirements*, May 2012. Available at: http://www.asic.gov.au/asic/asic.nsf/byheadline/Consultation+papers?openDocument

[2] The Treasury, *Implementation of a framework for Australia's G20 over-the-counter derivatives commitments*, Consultation Paper, April 2012. Available at: http://www.treasury.gov.au/ ConsultationsandReviews/Submissions/2012/Over-the-counter-derivatives-commitments-consultation-paper.