

REVIEW

Australian Energy Market Commission

ISSUES PAPER

Review of Arrangements for Compensation following an Administered Price, Market Price Cap or Market Floor Price

Commissioners

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26 May 2011

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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. The AEMC has two principal functions. We make and amend the national electricity and gas rules, and we conduct independent reviews of the energy markets for the MCE.

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Foreword

The Australian Energy Market Commission is initiating this review to ensure that specific aspects of the market frameworks which provide investment signals and manage the risks to market participants caused by periods of high wholesale market prices are robust and effective in delivering efficient market outcomes. Those frameworks include arrangements for determining and paying compensation following an administered price cap, administered floor price, market price cap or market floor price. This review will consider potential improvements to the operation and effectiveness of those compensation arrangements.

Context and scope of this review

This review will consider the operation and effectiveness of the current compensation arrangements in clauses 3.14.6 and 3.15.10 of the National Electricity Rules (Rules or NER).

The objectives of this review are:

- to ensure that the compensation provisions in the Rules are aligned with the objectives of paying compensation; and
- where appropriate, to recommend changes to the Rules to remove any ambiguities and improve the effectiveness, transparency and consistency of the arrangements for determining and paying compensation under clauses 3.14.6 and 3.15.10 of the Rules.

The Commission's Terms of Reference (TOR) for this review sets out the issues which will, at a minimum, be considered in this review. These issues were identified during the resolution of the compensation claim by Synergen Power Pty Ltd (Synergen Power), which was determined by the AEMC in 2010 and is the only claim to date under these provisions. During the processing of that claim, several apparent deficiencies with the current Rules were identified and the Commission stated that it intended to undertake a review into those matters.

This Issues Paper commences the AEMC's review.

The purpose of this Issues Paper is to seek stakeholder comments on the scope of the review and the issues that will be addressed. The Commission is particularly interested in stakeholder views on the effectiveness of the compensation provisions and whether there are any other issues not explicitly identified in the TOR that should also be addressed.

In addition to this Issues Paper, the Commission intends to publish a draft report and a final report for this review. The Commission aims to conclude this review in the first half of 2012.

Overview of the current compensation arrangements

Under clause 3.14.6 of the Rules, compensation may be payable to certain market participants following the application of an administered price cap (APC), administered floor price, market price cap (MPC) or market floor price. This is because these mechanisms may reduce the amount of wholesale market revenue that those market participants receive and may result in their costs exceeding their revenues. Compensation is recovered by the Australian Energy Market Operator (AEMO) from market customers in accordance with clause 3.15.10 of the Rules.

The AEMC is responsible for determining whether compensation is payable to an eligible market participant. The AEMC also determines the amount of compensation payable. In assessing a claim for compensation, the Commission will take into account the direct costs and opportunity costs incurred in the relevant period.

The compensation mechanism is one component of the market's broader MPC-Cumulative Price Threshold (CPT)-APC-Compensation mechanism. That mechanism establishes a framework to provide investment signals and manage risks faced by retailers and other market participants. In undertaking this review, the Commission will have regard to the role of the compensation provisions within this broader framework.

Most claims for compensation are likely to be made by generators following the application of an APC. The only claim to date, the Synergen Power claim, related to such a situation. However, the compensation provisions are applicable to several types of participants and in several circumstances. As such, this review will consider the arrangements for compensation across all circumstances covered by clause 3.14.6 of the Rules.

Submissions

This review is likely to have important implications for a range of stakeholders, including generators, retailers, market customers, scheduled network service providers (NSPs) and AEMO. Stakeholders are therefore encouraged to contribute to the outcomes of this review.

Submissions close on 7 July 2011.

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1 Background to the review

The Australian Energy Market Commission (AEMC or Commission) has initiated this review into the arrangements for determining and paying compensation following an APC, administered floor price, MPC or market floor price, under section 45 of the National Electricity Law (NEL).¹

1.1 Context of the review

Clause 3.14.6 of the Rules requires the AEMC to determine whether compensation is payable and, if so, the amount of compensation payable, if a claim is made by an eligible party due to the application of an APC, administered floor price, MPC or market floor price.

In 2010, the compensation claim from Synergen Power Pty Ltd was the first to be considered by the Commission under clause 3.14.6 of the Rules. Following the practical application of this clause, a number of issues within clause 3.14.6 were identified. The key issues related to the situations in which parties may be eligible to apply for compensation, the roles of the AEMC and the three member expert panel, the AEMC's power to disclose information subject to a claim of confidentiality and a lack of flexibility in the timing to process the compensation claim.

In its final decision on the Synergen Power compensation claim published in September 2010² (Synergen Final Decision), the Commission discussed its intention to undertake a review of the arrangements for determining compensation under clause 3.14.6 of the Rules. In addition, the Commission considers that clause 3.15.10 of the Rules should be reviewed to clarify how AEMO is to recover any compensation payable under clause 3.14.6 from market customers.

1.2 Objectives of the review

The objectives of this review are:

- to ensure that the compensation provisions set out in clause 3.14.6 of the Rules are aligned with the objectives of paying compensation; and
- where appropriate, to recommend changes to the Rules to remove any ambiguities and improve the effectiveness, transparency and consistency of the arrangements for determining and paying compensation under clauses 3.14.6 and 3.15.10 of the Rules.

¹ Under section 45 of the NEL, the AEMC may conduct a review into the operation and effectiveness of the Rules.

² AEMC, 2010, Compensation claim from Synergen Power Pty Ltd, Final Decision, 8 September 2010, Sydney.

In conducting any review under the NEL, the AEMC is required to have regard to the National Electricity Objective (NEO), which is 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.”

Amendments to the compensation provisions may contribute to the achievement of the NEO in several ways, including by:

- promoting efficient investment in electricity facilities and services, similar to the current objectives of the compensation provisions under clause 3.14.6 and the broader framework of which those provisions form part;
- providing increased regulatory certainty for participants regarding the eligibility for compensation and the operation of the compensation provisions under clause 3.14.6, which is likely to contribute to efficient decisions regarding investment in, and use of, electricity services; and
- improving the efficiency of the process for assessing compensation claims and recovering compensation from market customers.

1.3 Consultation process

Given that this review is likely to have important implications for stakeholders including generators, retailers, market customers, scheduled NSPs and AEMO, the AEMC is committed to undertaking this review in an open and transparent manner. All interested stakeholders are therefore encouraged to contribute their views during the course of this review.

In addition to this Issues Paper, the Commission intends to publish a draft report and a final report for this review. In accordance with section 45(4) of the NEL, a copy of the final report will be provided to the Ministerial Council on Energy (MCE)³ and published on the AEMC’s website.

³ Note that from 1 July 2011, the MCE will change its name to the Standing Council on Energy and Resources.

² Review of Arrangements for Compensation following an Administered Price, Market Price Cap or Market Floor Price

The table below sets out our indicative timetable for the review.

Milestone	Date
Publication of Issues Paper	26 May 2011
Close of submissions to Issues Paper	7 July 2011
Publication of Draft Report	Spring 2011
Close of submissions to Draft Report	Summer 2011/12
Publication of Final Report	Summer/Autumn 2012

1.4 Links to other relevant reviews

There are a range of reports that are relevant to the issues to be considered in this review and which stakeholders may find useful to consider in conjunction with this Issues Paper. These reports are available at www.aemc.gov.au and include:

- AEMC 2011, Final Decision on Amended Guidelines, Compensation Guidelines under clause 3.14.6 of the National Electricity Rules, 17 February 2011, Sydney;
- AEMC, 2010, Compensation claim from Synergen Power Pty Ltd, Final Decision, 8 September 2010, Sydney;
- AEMC 2009, Establishment of Guidelines for the determination of Compensation Following the Application of the Administered Price Cap, Market Price Cap, Market Floor Price or Administered Floor Price, Final Decision, 30 June 2009, Sydney; and
- AEMC 2008, Compensation Arrangements Under Administered Pricing, Rule Determination, 18 December 2008, Sydney.

1.5 How to make a submission

The closing date for submissions to this Issues Paper is 7 July 2011. Submissions should quote project number “EPR0026” 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

1.6 Structure of this Issues Paper

The remainder of this Issues Paper is structured as follows:

- Chapter 2 describes the scope of the review having regard to the AEMC's TOR;
- Chapter 3 places the compensation regime within the context of the broader MPC-CPT-APC-Compensation framework and describes the process for determining compensation under NER clause 3.14.6;
- Chapter 4 considers the objectives of paying compensation under NER clause 3.14.6 having regard to the broader framework within which the compensation mechanism operates;
- Chapter 5 considers the key issues related to the arrangements for determining compensation under NER clause 3.14.6; and
- Chapter 6 considers the key issues related to the arrangements for recovering compensation under NER clause 3.15.10.

2 Scope of Review

This chapter describes the scope of this review having regard to the AEMC's Terms of Reference.

2.1 AEMC Terms of Reference

The AEMC's TOR for this review set out the key issues which will, at a minimum, be considered by the Commission in conducting this review. These issues were explicitly identified following issues with the current Rules provisions coming to light in the resolution of the Synergen Power compensation claim.

The TOR require the AEMC to consider, at a minimum, the following key areas:

- the objectives of paying compensation under clause 3.14.6 and therefore the circumstances in which a claimant should be eligible to make a claim for compensation (including the use of the term “dispatch offer”);
- the process by which compensation is determined under clause 3.14.6, including:
 - the role of the AEMC and the three member panel;
 - the role of the consultation process in light of the limits on the AEMC's power to disclose information subject to a claim of confidentiality;
 - the timing for communicating to stakeholders that a compensation claim is under consideration; and
 - the desirability for flexibility in the timing associated with the processing of compensation claims;
- concerns raised in submissions on the Commission's draft report on the Synergen Power compensation claim that may be better considered as part of this review; and
- clarifying how AEMO recovers any compensation from market customers under clause 3.15.10.

The AEMC's TOR are set out in Appendix A of this paper.

2.2 Defining the scope

The TOR provide a degree of flexibility in considering additional issues related to clauses 3.14.6 and 3.15.10.

In order to fully determine the scope of the review and the issues that will be addressed, the Commission seeks the views of stakeholders on the effectiveness of these provisions and whether there are any other related deficiencies not explicitly

identified in the TOR that need to be addressed. In defining the scope of the review, it will be important to understand the materiality of any issues that are present.

The Commission notes that the scope of this review is limited to making recommendations for possible changes in respect to clauses 3.14.6 and 3.15.10 in line with the NEO and the objectives of the review. However, the Commission recognises the interrelated nature of some of the key issues set out in the TOR with other provisions in the Rules which may affect and/or be affected by the operation of these clauses. Therefore, it may be necessary to take into account the operation and effect of other provisions and how they may interact with the arrangements for determining and paying compensation under clauses 3.14.6 and 3.15.10.

To provide some guidance to stakeholders, the Commission has set out below some additional issues which it considers may warrant further investigation, in some degree, as part of this review. The Commission has also set out those areas it considers to be beyond the scope of this review.

Price scaling during an administered price period (APP)⁴

In considering the circumstances in which a party may be eligible to claim compensation, it may be necessary to consider the operation and effect of price scaling across regions during an APP, and the impact of these provisions on NER clauses 3.14.6(a), (a1), (a2) and (a3). However, the provisions for price scaling during an APP⁵ are beyond the scope of the review.

Market suspension

Several references are made to "market suspension" within clauses 3.14.6(a), (a2) and (b) of the Rules. Whilst the Commission intends to consider the role of market suspension in the context of the application of an APC, administered floor price, MPC or market floor price, the specific Rules governing market suspension⁶ are beyond the scope of this review.

Broader MPC-CPT-APC-Compensation mechanism⁷

The Commission intends to consider the role of the compensation regime within the broader MPC-CPT-APC-Compensation framework to assist in clarifying the objectives of paying compensation under clause 3.14.6. This will likely include consideration of the interaction between the levels at which the MPC, CPT and APC are set, and the basis for compensation. However, the Rules related to the application and operation of

⁴ Under clause 3.14.2(e)(2) of the Rules, the settlement price of regions where the APC has not been applied can be scaled back during an APP if these regions are exporting power along regulated interconnectors to regions where the APC has been applied.

⁵ NER clauses 3.9.5(c), 3.9.6A(c) and 3.14.2e(2) and (3).

⁶ Including the declaration of market suspension under NER clauses 3.14.4 and pricing during market suspension set out under NER clause 3.14.5.

⁷ Note that this mechanism includes the market floor price and administrative floor price settings.

⁶ Review of Arrangements for Compensation following an Administered Price, Market Price Cap or Market Floor Price

the MPC, CPT and APC, including the levels at which these are set, are beyond the scope of this review.

Bidding/rebidding provisions in the Rules

During the Synergen Power compensation claim, there was some debate around whether the term “dispatch offer”, when used in clause 3.14.6, should include rebids. In line with the TOR, the Commission intends to consider the use of the term “dispatch offer” in the context of the circumstances in which a claimant should be eligible to make a claim for compensation. However, it is not the Commission's intention to review the Rules related to bidding and rebidding by generators and market participants.

Methodology for determining the quantum of compensation

In December 2008, the Commission implemented a change to the compensation arrangements following a Rule change proposal submitted by EnergyAustralia.⁸ A key change to the Rules which was approved by the Commission related to the methodology for calculating compensation following an administered price, MPC or market floor price.⁹ In making its final determination for that Rule change, the Commission concluded that the quantum of compensation awarded to an eligible party should be reflective of a firm’s short run marginal cost and should incorporate both direct generating costs and opportunity costs. It is not an objective of this review to reconsider the methodology for determining the quantum of compensation payable under clause 3.14.6.

The Commission does however recognise that if this review finds that the objectives of paying compensation differ, or should differ, from those currently set out in the Rules and compensation guidelines, there may be a need to reconsider the methodology for determining the quantum of compensation payable so that it is consistent with the revised objectives.

Other compensation related provisions in the Rules

There are a number of other compensation related provisions set out within the Rules.¹⁰ It is not an objective of this review to consider those other provisions in detail or recommend any amendments to those provisions. However, to the extent that they are able to provide useful comparisons with the provisions set out in clause 3.14.6, the Commission may refer to them.

⁸ AEMC 2008, Compensation Arrangements Under Administered Pricing, Rule Determination, 18 December 2008, Sydney.

⁹ NER clauses 3.14.6(c)2(i) and (ii).

¹⁰ See Appendix C.

AEMO Rule change proposal: Application and Operation of Administered Price Periods

On 4 January 2011, AEMO submitted a Rule change request to the AEMC¹¹ to address a perceived ambiguity in the Rules with respect of the application and operation of APPs triggered by high ancillary service prices. AEMO has proposed five amendments to the Rules, including a proposal to extend the time AEMO has to settle compensation following implementation of an APC, MPC or market floor price under clause 3.15.10(c) of the Rules.

The Commission is currently progressing work on this Rule change request and the draft determination is due to be published in July 2011. In undertaking this broader review of the compensation provisions, the Commission will have regard to the progress of this Rule change request.

2.2.1 Questions for consideration

Question 1: Are there any additional matters that should be included in the scope of the review?

¹¹ AEMO, Application and Operation of Administered Price Periods, Rule change proposal, 4 January 2011.

3 Overview of the compensation provisions

3.1 The MPC-CPT-APC-Compensation mechanism

The compensation regime in clause 3.14.6 is one component of the market's broader MPC-CPT-APC-Compensation mechanism which, as a whole, provides a framework to provide investment signals and manage risks faced by retailers and other market participants.

The National Energy Market (NEM) is an energy-only market. The volatility of spot prices for both energy and ancillary services is therefore an important aspect of market design and operation. The ability of prices to move from $-\$1,000/\text{MWh}$ up to $\$12,500/\text{MWh}$ ¹² allows generators and other participants to earn a reasonable return on assets and recover fixed costs. However, this volatility also creates risk for parties who purchase energy from the wholesale market as a persistently high spot price can lead to participant financial distress and, in extreme cases, may impact the stability of the wider market.

While the management of risk by individual market participants is an essential and unavoidable aspect of participating in the NEM, the Rules contain a number of key mechanisms designed to help manage risks to individual market participants and systemic market wide risks.

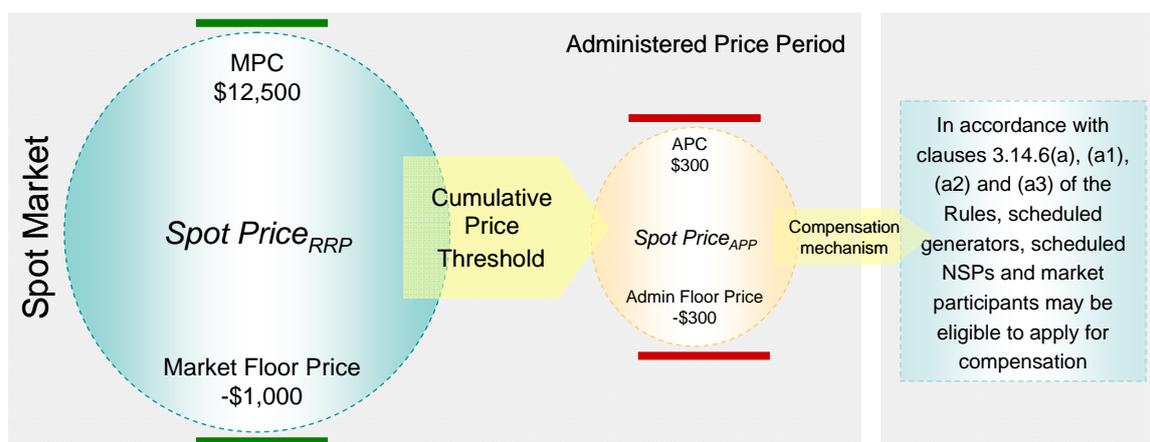
The design of this area of the NEM has undergone several changes since its creation in 1996. Currently, the Rules contain four mechanisms that together make up an overall package for managing the risks that periods of sustained high prices could pose to the NEM and its participants:

- the spot market price cap known as the MPC (previously 'Value of Lost Load (VoLL)') and a market floor price;
- a CPT that applies over a seven day rolling period, triggering an APP when breached;
- an APP, during which an APC applies to settlements in the region where the CPT is breached. Settlement prices in other regions exporting toward the APC region are scaled back towards the APC level using the average loss factors on each interconnector; and
- a compensation mechanism for eligible parties that are adversely affected during the APP.

The MPC-CPT-APC-Compensation mechanism is illustrated in the figure below.

¹² That is, between the current level of the market floor price and market price cap.

Figure 3.1 MPC-CPT-APC-Compensation mechanism



3.2 Participants eligible to apply for compensation

Clauses 3.14.6(a), (a1), (a2) and (a3) of the Rules specify the coverage of the compensation arrangements, namely the market participants that are eligible to apply for compensation and the circumstances in which those parties may apply for compensation. The table below summarises these provisions.

Table 3.1

Relevant NER clause	Claimant	Situation	Eligible to apply for compensation
Clause 3.14.6(a)	Scheduled Generator	Application of an APC during either an APP or market suspension	If resultant spot price payable is less than the price specified in the dispatch offer for a trading interval
Clause 3.14.6(a1)	Scheduled Network Service Provider	Application of an APC, the MPC, the market floor price or an administered floor price	If resultant revenue receivable is less than the minimum requirement specified by the network dispatch offer for a trading interval
Clause 3.14.6(a2)	Market Participant	Application of an administered floor price during either an APP period or market suspension	If resultant spot price is greater than the price specified in the dispatch bid for trading interval
Clause 3.14.6(a3)	Market Participant (in respect of an ancillary service generating unit or ancillary service load)	Application of an APC	If resultant ancillary service price is less than the price specified in the relevant market ancillary service offer for a dispatch interval

The Commission notes that the provisions setting out the circumstances in which a market participant may be eligible to apply for compensation operate separately from the mechanism which determines the amount of compensation payable (if any). That is, being eligible to apply for compensation does not necessarily mean that the amount of compensation awarded will be above zero. A market participant will generally only be eligible to receive compensation if its costs exceed its wholesale market revenues during the relevant period.

3.3 Process for determining compensation

Clause 3.14.6 of the Rules requires the AEMC to determine whether compensation is payable, and if so, the amount of compensation payable, if a claim is made by an eligible party due to the application of an APC, administered floor price, MPC or market floor price.

The key areas covered by clause 3.14.6 relate to:

- the circumstances in which certain parties are eligible to apply for compensation;
- the preparation of compensation guidelines¹³ by the AEMC to support the operation of clause 3.14.6 which must:
 - identify the objectives of paying compensation as those set out under clause 3.14.6(c)(1);
 - require that the amount of compensation be based on costs directly incurred by the claimant and the value of any opportunities forgone;
 - outline the methodology to be used to calculate the amount of compensation payable; and
 - set out the information that AEMO and the claimant are required to provide;
- the roles and responsibilities of the AEMC in determining whether compensation should be paid and the amount of compensation payable, including:
 - a requirement on the AEMC to establish a three member panel (Panel) to provide advice to the AEMC on the claim; and
- the roles and responsibilities of the Panel in providing advice to the AEMC.

The process and associated timeframes for determining compensation are illustrated in Appendix B.

¹³ AEMC 2011, Amended Guidelines, Compensation Guidelines under clause 3.14.6 of the National Electricity rules, 17 February 2011, Sydney.

Consultation and confidentiality

The process for determining compensation under this part of the Rules is structured around a consultative determination process. The AEMC must undertake a public consultation in respect of the Panel's draft report and the AEMC's draft decision before any compensation amount is determined.¹⁴

In order to facilitate public consultation on a claim, the AEMC will publish all information provided by claimants or people making submissions, subject to any claims of confidentiality in respect of that information.

Chapter 4 of the compensation guidelines sets out how the Commission will deal with confidential information contained in claims or submissions. In summary, when performing its functions under clause 3.14.6 of the Rules, the AEMC is required to take all reasonable measures to protect from unauthorised use or disclosure, information given to it in confidence.

Accordingly, if a claimant or person making a submission provides information to the AEMC and some or all of that information is clearly marked as confidential, the AEMC will not publish the confidential information. In such a case, the AEMC will publish any non-confidential information contained in the claim or submission and include a note to the effect that confidential information has been omitted from the published information. These confidentiality requirements and the implications for consultation are discussed further in section 5.2.2.

¹⁴ NER clause 3.14.6(i)(3).

4 Objectives of paying compensation under clause 3.14.6

This chapter considers the objectives of paying compensation under clause 3.14.6 having regard to the broader framework within which the compensation mechanism operates.

4.1 Current provisions

Under clause 3.14.6(c)(1) of the Rules, the AEMC is required to develop and publish compensation guidelines that, amongst other things:

“... identify the objectives of the payment of compensation under this clause as being 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 its compensation guidelines, the AEMC further notes that:¹⁵

“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.”

4.2 Issues

During the Synergen Power compensation claim, it became apparent that a number of stakeholders and the Panel had different views as to the key objective of the compensation provisions. The differences had subsequent implications for the way in which these parties interpreted specific provisions within clause 3.14.6, in particular the eligibility criteria in respect of generators seeking compensation under clause 3.14.6(a).

Whilst the Rules clearly identify two objectives of paying compensation, they are not clear on the appropriate balance to be struck between the two. In addition, the description of the objectives provided in the Rules is brief which potentially also provides the opportunity for debate on their interpretation.

The Commission therefore considers that an important first step in this review is to clarify the policy objectives that the compensation provisions should be designed to

¹⁵ AEMC, 2010, Compensation claim from Synergen Power Pty Ltd, Final Decision, 8 September 2010, Sydney, p.5.

meet. The Commission will also consider the appropriate balance to be struck between possible competing objectives.

In reviewing the objectives of paying compensation, consideration needs to be given to the role that the compensation mechanism plays within the market's broader MPC-CPT-APC-Compensation framework, and the interrelationships between the four components of that framework. This is considered in the next section.

4.3 Objectives of the MPC-CPT-APC-Compensation framework

As noted previously, the compensation mechanism is one component of the market's broader MPC-CPT-APC-Compensation framework. The four components of this framework are intended to operate together to strike a balance between containing extreme price risk for those parties who purchase electricity from the wholesale market, while at the same time ensuring the incentives for investment in generation (in particular peaking generation) remain. The success of the framework in striking a balance between the potentially conflicting interests of various market participants depends primarily on the levels at which the MPC, CPT and APC are set, as well as the basis upon which compensation is paid.

The objectives and operation of these mechanisms are summarised below.

Market price cap

The MPC is currently set at \$12,500/MWh and is reviewed by the AEMC Reliability Panel in accordance with clause 3.9.3A of the Rules.¹⁶

In setting the level of the MPC, the Reliability Panel will have regard to the following criteria:¹⁷

- maintaining incentives for supply and demand side investment, particularly in peaking plant;¹⁸ and
- minimising risk to market participants (in particular retailers or customers participating in the market themselves), resulting from extreme price events.

¹⁶ The AEMC is currently considering a Rule change request submitted by the Reliability Panel to the AEMC in August 2010. The Rule change request seeks to: (1) maintain the real values of the MPC and CPT over time through indexation; and (2) implement changes to the regular review process. The Commission published its draft determination for this Rule change in March 2011. See: AEMC 2011, Reliability Settings from 1 July 2012, Rule Determination, 24 March 2011, Sydney.

¹⁷ AEMC 2009, NEM Reliability Settings: VoLL, CPT and Future Reliability Review, Final Determination, 28 May 2009.

¹⁸ Peaking generating plant may only be required to run a few hours in a year in order to meet periods of extreme demand. It is therefore important that these peaking generators are able to receive sufficient return from both the contract market and spot market in those few hours to maintain the incentive for this plant to be available when it is most needed.

¹⁴ Review of Arrangements for Compensation following an Administered Price, Market Price Cap or Market Floor Price

Cumulative price threshold

The CPT is the explicit risk management mechanism designed to limit market participants' exposure to protracted stress in the wholesale spot market. If the sum of the spot price (\$/MWh) in the previous 336 trading intervals¹⁹ exceeds the CPT, or if the sum of the ancillary services price (\$/MWh) in the previous 2016 dispatch intervals²⁰ exceeds six times the CPT, then an APP is declared. During the APP, if the spot price calculated normally exceeds the APC, the price is set at the APC. Similarly, if, during the APP, the spot price is less than the administered floor price, the price is set at the administered floor price.²¹

The CPT is currently set at \$187,500 and is reviewed by the Reliability Panel in accordance with clause 3.9.3A of the Rules.

In setting the level of the CPT, the Reliability Panel will have regard to the following criteria:²²

- minimising the risk of hindering supply and demand side investment, particularly in peaking generation; and
- limiting the financial risk exposure of market participants in extreme circumstances.

Administered price cap

The APC mechanism is triggered in circumstances where the CPT is breached. Once the CPT is breached and a trading interval becomes an APP, dispatch prices for energy and ancillary service prices cannot exceed the APC, currently set at \$300/MWh.

The AEMC is responsible for setting the APC in accordance with clause 3.14.1(a) of the Rules. In setting the level of the APC, the AEMC will have regard to the following criteria:²³

- mitigating the risk of systematic financial collapse of the electricity industry during an extreme market event;
- minimising compensation claims by market participants; and
- minimising the incentives for market participants to not supply electricity during administered price events.

¹⁹ This is equivalent to a consecutive seven day period.

²⁰ Ibid.

²¹ NER clauses 3.14.2(d1) and (d2).

²² AEMC 2009, NEM Reliability Settings: VoLL, CPT and Future Reliability Review, Final Determination, 28 May 2009.

²³ AEMC 2008, Clarification of the Schedule for the Administered Price Cap - Final Report, 30 April 2008, Sydney, p.8.

Compensation arrangements

Compensation may be payable to certain market participants following the application of an APC, administered floor price, MPC or market floor price. This is because these mechanisms may reduce the amount of wholesale market revenue that those market participants receive and may result in their costs exceeding their revenues.

The potential for these market participants to incur losses may, in the absence of a compensation regime, have adverse consequences for the market as parties seek to alter their behaviour to minimise or avoid potential exposure to those losses. More specifically, the absence of a compensation mechanism may discourage generators and demand side bidders from:

- supplying energy and other services during extreme price events; and, in the longer term if these events are frequent,
- investing in generation and demand side response.

The payment of compensation recognises the regulatory risk that parties who supply energy and services to the wholesale market may face. As such, the Rules seek to ensure that these participants are not disadvantaged by continuing to participate in the market during high stress periods such as an APP.

The compensation provisions are intended to contribute to the maintenance of investment and supply signals in extreme circumstances and, when operating together with the MPC, CPT and APC, they should help to ensure that supply reliability and market stability are maintained.

As noted in section 3.3, compensation under clause 3.14.6 is payable to several types of participants and in several circumstances. It is therefore important that the objectives of paying compensation are relevant to each of those situations.

Relevance of objectives

The objectives of paying compensation are closely linked with two key elements of the compensation framework, namely:

- the provisions specifying who is eligible to apply for compensation (the “eligibility criteria”); and
- the provisions setting out the methodology for determining the quantum of compensation payable.

These aspects of the compensation regime are important in that they identify those market participants who it is considered appropriate to compensate to meet the objectives of the clause. They also determine the size of the payment those market participants can expect to receive.

Careful alignment of these two aspects of the framework with the objectives of paying compensation is vital to ensure that market participants are incentivised to behave in a way that ensures the objectives of the compensation regime can be achieved.

4.4 Questions for consideration

Question 2: What is the purpose of paying compensation under clause 3.14.6 of the Rules?

Question 3: Do the objectives of paying compensation as currently set out in the Rules accurately reflect the policy objectives that the compensation provisions were, or should be, designed to achieve? If not, what should the objectives be?

Question 4: In the case of multiple and/or competing objectives, what is the appropriate balance to be struck between them?

Question 5: Do the objectives of paying compensation suit all of the different participants and circumstances in which compensation is payable?

5 Arrangements for paying compensation under clause 3.14.6

This chapter considers the key issues related to the arrangements for determining compensation under clause 3.14.6.

5.1 Eligibility criteria

5.1.1 Current provisions

Clauses 3.14.6(a), (a1), (a2) and (a3) of the Rules specify the coverage of the compensation arrangements following the application of an APC, administered floor price, MPC or market floor price. In particular, these provisions set out:

- the market participants that are eligible to apply for compensation; and
- the circumstances in which parties may apply for compensation.

The circumstances in which compensation may be payable differs for different types of market participants as follows:

- A scheduled generator is eligible to claim compensation “...in respect of *generating units* if, due to the application of an *administered price cap* during either an *administered price period* or *market suspension*, the resultant *spot price* payable in respect of the *dispatched generating units* in any *trading interval* is less than the price specified in their *dispatch offer* for that *trading interval*.”²⁴
- A scheduled network service provider is eligible to claim compensation “...in respect of a *scheduled network service* if, due to the application of an *administered price cap*, the *market price cap*, the *market floor price* or an *administered floor price*, the resultant revenue receivable in respect of *dispatched network services* in any *trading interval* is less than the minimum requirement specified by its *network dispatch offer* for that *trading interval*.”²⁵
- A market participant is eligible to claim compensation “...in respect of a *scheduled load* if, due to the application of an *administered floor price* during either an *administered price period* or *market suspension*, the resultant *spot price* in any *trading interval* is greater than the price specified in the *dispatch bid* for that *trading interval*.”²⁶
- A market participant may also be eligible to claim compensation in respect of an ancillary service generating unit or an ancillary service load “...if, due to the application of an *administered price cap*, the resultant *ancillary service price* for that

24 NER clause 3.14.6(a).

25 NER clause 3.14.6(a1).

26 NER clause 3.14.6(a2).

ancillary service generating unit or ancillary service load in any dispatch interval is less than the price specified in the relevant market ancillary service offer.”²⁷

The Commission notes that being eligible to apply for compensation does not necessarily mean that the amount of compensation awarded will be above zero. The criteria for eligibility to apply for compensation operate separately from the mechanism which determines the amount of compensation payable (if any). A market participant will generally only be eligible to receive compensation if its costs exceed its wholesale market revenues during the relevant period.

5.1.2 Issues

Use of the term "dispatch offer"

During the Synergen Power compensation claim, it became apparent that the basis on which a generator is eligible to apply for compensation under clause 3.14.6(a) is capable of different interpretations that could significantly affect the outcome of a compensation claim.

Specifically, the question of whether the term “dispatch offer” when used in clause 3.14.6 should include rebids made by a generator under clause 3.8.22 was subject to a difference of opinion between the Panel and some stakeholders.

In its compensation claim, Synergen Power submitted that clause 3.14.6(a) of the Rules should be read so that 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.

The Panel agreed with Synergen Power that the term “dispatch offer” refers to the original bid made in advance (the process 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”.²⁸

One submission received on the compensation claim draft report considered that if Synergen Power’s dispatch offer is varied by a rebid, then the rebid should be taken into account in assessing the eligible trading intervals for which compensation may be claimed.²⁹

²⁷ NER clause 3.14.6(a3).

²⁸ Expert Panel, Final 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, section 3.2.

²⁹ AGL submission, 21 July 2010.

In the Synergen Final Decision, the Commission concluded that “having considered the phrase ‘the price specified in their dispatch offer’ in clause 3.1.4.6(a) in the context of the Rules (including relevant Chapter 10 definitions) and the interpretation provisions in Schedule 2 of the NEL, the Commission considers that the proper construction of that phrase is the price(s) specified in the original dispatch offer of the Scheduled Generator under clause 3.8.6 of the Rules. Under clause 3.8.22(a) of the Rules, the price(s) in a dispatch offer under clause 3.8.6 of the Rules are not and cannot be varied by any rebid”.³⁰

The Commission also noted that the practical consequence of its interpretation of "dispatch offer" is that clause 3.14.6(a) of the Rules may be unlikely to provide a barrier to an application for compensation.

Price scaling and eligibility

Under clause 3.14.2(e)(2) of the Rules, the settlement price of regions where the APC has not been applied can be scaled back during an APP if these regions are exporting power along regulated interconnectors to regions where the APC has been applied.³¹ As a consequence, during an APP, price capping may occur in a number of regions and may not be isolated to the region where the APC has been directly applied.

Clauses 3.14.6(a), (a1), (a2) and (a3) allow market participants in interconnected regions where an APC has not been directly applied to seek compensation following an APP if their resultant spot price/revenue receivable is less than the price specified in their dispatch offer/bid for that particular trading interval.³²

Whilst no specific issue was identified in respect of the price scaling provisions during the Synergen Power compensation claim, the Commission seeks views on the interaction between price scaling and the eligibility criteria, and the subsequent impact on the ability of the provisions in clause 3.14.6 to meet the desired objectives.

Reference to "market suspension"

Clauses 3.14.6(a), (a2) and (b) make reference to "market suspension" as a particular occasion where compensation may be payable to relevant market participants. Specifically, clauses 3.14.6(a) and (a2) draw a link between:

- “the application of an administered price cap during...market suspension”;³³ and
- “the application of an administered floor price during...market suspension”.³⁴

³⁰ AEMC 2010, Compensation claim from Synergen Power Pty Ltd, Final decision, 8 September 2010, p.11.

³¹ This clause indicates that the regional reference price (RRP) of the exporting region will be scaled back to the product of the importing region’s capped price and the average inter-regional loss factor between the exporting region and the importing region.

³² AEMC 2008, Compensation Arrangements Under Administered Pricing, Rule Determination, 18 December 2008, Sydney, Appendix D.

³³ NER clause 3.14.6(a).

²⁰ Review of Arrangements for Compensation following an Administered Price, Market Price Cap or Market Floor Price

The Commission notes the following:

- by definition, an APC can only be invoked in the circumstances set out in clause 3.14.2. Market suspension is not one of those circumstances;
- clause 3.14.5 of the Rules sets out how prices will be determined during market suspension and makes no reference to the application of the APC; and
- clause 3.14.3(a) of the Rules provides that if AEMO declares the spot market to be suspended in a region then all the spot prices and ancillary service prices are to be set in accordance with clause 3.14.5. As noted above, there is no mention in clause 3.14.5 of setting the spot price to the APC.

The Commission's preliminary view is that these references to market suspension may be a legacy from earlier versions of the clause.

5.1.3 Questions for consideration

Question 6: In what circumstances should persons be eligible to apply for compensation, having regard to the objectives of paying compensation?

Question 7: Should the references to “market suspension” be removed from clauses 3.14.6(a), (a2) and (b)? If not, why?

Question 8: Are there any other issues in respect of the criteria for eligibility to apply for compensation that would benefit from further consideration in this review?

5.2 Process for determining compensation

5.2.1 Current provisions

Section 2.2 and Appendix B provide an overview of the process for determining compensation under clause 3.14.6 of the Rules.

5.2.2 Issues

AEMC's power to disclose information subject to a claim of confidentiality

The current Rules provisions for determining compensation are structured around a consultative determination process. However, during the Synergen Power compensation claim, several issues came to light in respect of the AEMC's obligations and legislative powers to protect confidential information under the *Australian Energy Market Commission Establishment Act 2004(SA)* (AEMC Act) and the NEL which may have prevented effective consultation from occurring.

34 NER clause 3.14.6(a2).

In its compensation claim, Synergen Power made a wide claim for confidentiality - seven of the eight Annexures setting out the details of its claim were subject to a claim of confidentiality. This included the basic calculation for the total claimable amount of compensation, which used aggregate figures. In addition, all further information requested by the AEMC to verify and substantiate the compensation claim was also subject to a claim of confidentiality.

In the Panel's preliminary draft report on the compensation claim, the Panel recommended that some Annexures to Synergen Power's claim not be considered confidential and be disclosed by the AEMC, to promote effective consultation on the compensation claim. The Commission reviewed the legal basis for the confidentiality section of the compensation guidelines and determined that this section was inconsistent with the AEMC's obligations to protect confidential information under the AEMC Act and the NEL.

This is because, when performing its functions under clause 3.14.6 of the Rules, the AEMC is not empowered under the AEMC Act and NEL to decide whether or not information given to it in confidence by a claimant is, in fact, 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 from unauthorised use or disclosure. The Commission advised the Panel of this situation and requested it not to take into account section 4 of the compensation guidelines in its considerations.

The confidentiality section of the compensation guidelines was amended on 17 February 2011 to make it consistent with the AEMC's obligations to protect information under the AEMC Act and NEL.

The AEMC's obligations to protect all information provided to it in confidence in connection with compensation claims may impact on public consultation in relation to future compensation claims. In particular, 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 on a compensation claim.

This tension between ensuring an effective consultation process and the need to maintain confidentiality raises a number of issues including the role of the AEMC in determining compensation and the practicality of having effective consultation on what will generally be information that market participants are likely to consider confidential, for example, plant operating costs.

The role of the AEMC

The Rules contain a number of provisions requiring the determination of compensation. Of these, only compensation under clause 3.14.6 of the Rules is determined by the Commission. The majority of other compensation related provisions set out in the Rules require AEMO to determine compensation. The table set out in Appendix C lists the other compensation related provisions including the party responsible for determining compensation.

Under the NEL, AEMO may use and disclose information given to it in confidence in certain circumstances. For example, under section 54H(1) of the NEL, AEMO is authorised to disclose protected information if AEMO is of the opinion that:

- (a) the disclosure of the information would not cause detriment to the person who has given it or to a person from whom that person received it; or
- (b) although the disclosure of information would cause detriment to such a person, the public benefit in disclosing it outweighs that detriment.

In light of the confidentiality issue and other issues discussed in this paper, the Commission considers there is merit in exploring further whether the AEMC is the most appropriate body to be assessing compensation claims under clause 3.14.6.

The role of the Panel

Clause 3.14.6 requires a three member Panel to be established to advise the AEMC as to whether:

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

As indicated in the table in Appendix C, other compensation provisions under the Rules may call for an independent expert to provide advice on the relevant matter, but do not mandate a three member Panel to provide the advice.

Requiring a three member Panel to be convened in all instances has implications including in respect of the cost incurred in assessing a compensation claim under clause 3.14.6. The Commission notes that the final costs of the Panel in providing advice to the AEMC on Synergen Power's compensation claim was equivalent to 60 per cent of the amount of compensation payable to Synergen Power.

In light of these issues, the Commission considers there is merit in considering whether it is necessary in all instances to appoint a three person Panel to assess a claim brought under clause 3.14.6 or whether alternative approaches may be more efficient. For example, it may be satisfactory in some cases to use a single independent expert, as is the practice for compensation claims in respect of AEMO issued directions.

Timeframes for communicating that a claim is under consideration

Clause 3.14.6 sets out the timeframes for processing compensation claims, including preparing and publishing documents and undertaking a public consultation. Clause 3.14.6 does not, however, prescribe a timeframe within which the Commission must formally notify the public that it has:

- received notification under clause 3.14.6(b) of an intention to claim; or
- commenced formal assessment of the compensation claim after sufficient information has been received from the claimant.

In practice, this means that the wider market may not be made aware that a claim is being considered by the Commission under clause 3.14.6 until such time as the Commission publishes its draft decision and the Panel's draft report in accordance with clause 3.14.6(i).

Flexibility of timing associated with processing compensation claims

During the Synergen Power compensation claim, it also became apparent that the timing provided in clause 3.14.6 of the Rules does not provide for any delays or extensions of time in the processing of a compensation claim.

In practice, this means that there may not be any opportunity for the AEMC and/or Panel to verify or clarify the details of a compensation claim once the timeframes in the Rules commence.

In the case of the Synergen Power claim, the Panel was required on a number of occasions to seek further information from the claimant in support of its claim. In practical terms, the timetable for the assessment of such claims would have made such additional information requests difficult and, as a result, it was necessary for the Panel to ask for much of this information before the claim process (and associated timetable) officially commenced.

5.2.3 Questions for consideration

Question 9: In light of the confidentiality issue and other issues discussed in this Issues Paper, is the AEMC the most appropriate body to be assessing compensation claims of this nature?

Question 10: Is it necessary in all instances to appoint a three person Panel to assess a claim brought under clause 3.14.6? If not, what is a more appropriate arrangement?

Question 11: Should the Commission be required to notify the market that it has received, and/or has formally commenced consideration of, a claim under clause 3.14.6?

Question 12: Should some flexibility be built into the timing associated with processing a claim to provide for information gathering, delays or extensions?

6 Arrangements for recovering compensation under clause 3.15.10

This chapter considers the key issues related to the arrangements for recovering compensation under clause 3.15.10.

6.1 Current provisions

Clause 3.15.10 of the Rules sets out the arrangements for the recovery of compensation payable under clause 3.14.6. It requires that:³⁵

“...AEMO must determine an amount which shall be payable by all *Market Customers* who purchased electricity from the *spot market* in a region in which the *regional reference price* was affected by the imposition of an *administered price* or the *market price cap*, or the *market floor price* in the *trading interval* or *trading intervals* in respect of which such compensation has been awarded.”

In addition, clause 3.15.10(c) allows AEMO fifteen business days to include compensation amounts payable in the preliminary and final statements of relevant market participants. The fifteen business days commences from the time the AEMC notifies AEMO of the compensation amount payable under clause 3.14.6.

The Commission is currently progressing work on a Rule change request submitted by AEMO to extend the time AEMO has to settle compensation following implementation of an APC, MPC or market floor price under this clause.³⁶

6.2 Issues

Use of the term "administered price"

Following notification of the total amount of compensation payable to Synergen Power by trading interval, AEMO raised a concern in respect of a potential ambiguity in the wording of clause 3.15.10 which subsequently lead to difficulties in the practical implementation of this clause.

Clause 3.15.10 provides for AEMO to recover compensation payable from market customers who purchased electricity from the spot market in a region in which the regional reference price (RRP) was "affected" by the imposition of an "administered price". However, the Rules do not specify whether the term "administered price" refers to an APC, an administered floor price or an APP.

³⁵ NER clause 3.15.10(a).

³⁶ AEMO, Application and Operation of Administered Price Periods, Rule change proposal, 4 January 2011.

The Commission considers that an RRP will only be affected if the dispatch price is set to the APC or market floor price in the interconnected region. As such, the Commission is of the view that the term "administered price" in clause 3.15.10 refers to either the imposition of an APC or administered floor price.

Although AEMO was able to recover the compensation payable from market customers for the Synergen Power compensation claim, AEMO noted that there would be benefit in clarifying the provisions set out in clause 3.15.10 to avoid difficulties in recovering compensation payable in future compensation claims.

Price scaling and cost recovery

As noted in section 5.1.2, clause 3.14.2(e)(2) of the Rules provides that the settlement price of regions where the APC has not been applied can be scaled back during an APP if these regions are exporting power to regions where the APC has been applied.

Clause 3.15.10 could be interpreted as implying that those market customers in interconnected regions where an administered price has not been directly applied may be required to pay compensation if they purchased electricity from a region in which the RRP was "affected" by an administered price.

Whilst no specific issue was identified in respect of the price scaling provisions during the Synergen Power compensation claim, the Commission intends to consider the interaction between price scaling and the cost recovery provisions.

Broader process for recovery of compensation

In its submission to the Commission's draft decision on the Synergen Power compensation claim, Origin Energy raised a number of concerns regarding the broader process for the recovery of compensation from market customers.³⁷ More specifically, Origin Energy was of the view that further consideration should be given to the following issues:

- the classification of the compensation recovery amounts and how they are to be recovered from market customers;
- the potential risk exposure for market customers as they are unable to put an effective risk management strategy in place due to the unknown timing and amount of compensation to be recovered from time to time; and
- where compensation is payable, the direct impact the quantum of compensation and the timing of recovery has on market customers.

The Commission addressed Origin Energy's first concern in the Synergen Final Decision.³⁸ The other two issues were considered beyond the scope of determining

³⁷ Origin Energy, Draft Decision submission, p.2.

³⁸ AEMC 2010, Compensation claim from Synergen Power Pty Ltd, Final decision, 8 September 2010, Sydney, p.7-8.

Synergen Power's compensation claim and will be considered in the context of this review.

6.3 Questions for consideration

Question 13: What aspects (if any) of the provisions set out in clause 3.15.10 would benefit from further consideration in this review?

Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
APC	Administered Price Cap
APP	Administered Price Period
Commission	See AEMC
CPT	Cumulative Price Threshold
MCE	Ministerial Council on Energy
MPC	Market Price Cap
NEL	National Electricity Law
NEM	National Energy Market
NEO	National Electricity Objective
NER	National Electricity Rules
NSPs	Network Service Providers
RRP	Regional Reference Price
Rules	See NER
TOR	Terms of Reference
VoLL	Value of Lost Load

A Terms of Reference

Review of Arrangements for Determining and Paying Compensation under clauses 3.14.6 and 3.15.10 of the National Electricity Rules

Introduction

Clause 3.14.6 of the National Electricity Rules (NER or Rules) requires the Australian Energy Market Commission (AEMC or Commission) to determine whether compensation is payable, and if so the amount of compensation payable, if a claim is made by an eligible party due to the application of the administered price cap, market price cap, market floor price or administered floor price.

In 2010, the compensation claim from Synergen Power Pty Ltd was the first to be considered by the Commission under NER clause 3.14.6. Following the practical application of this clause, it was recognised that there are deficiencies in NER clause 3.14.6 that cause difficulties when determining compensation under that clause.

In its final decision on the compensation claim from Synergen Power³⁹, the Commission indicated that it would initiate a review⁴⁰ of NER clause 3.14.6. In addition, the Commission has been advised that NER clause 3.15.10 should be reviewed to clarify how AEMO is to recover any compensation payable under NER clause 3.14.6 from market customers.

Scope of this Review

The AEMC is reviewing the arrangements for determining and paying compensation under clauses 3.14.6 and 3.15.10 of the NER to consider, as a minimum:

- the objectives of paying compensation under clause 3.14.6 and therefore the circumstances in which a claimant should be eligible to make a claim for compensation (including the use of the term “dispatch offer” in NER clause 3.14.6(a));
- the process by which compensation is determined, including:
 - the role of the AEMC and the three member panel under NER clause 3.14.6;
 - the role of the consultation process in light of the limits on the AEMC’s power to disclose information subject to a claim of confidentiality, when performing its role under NER clause 3.14.6;
 - the timing for communicating to stakeholders that a compensation claim under NER clause 3.14.6 is under consideration;

³⁹ AEMC 2010, Compensation claim from Synergen Power Pty Ltd, Final decision, 8 September 2010, p.6.

⁴⁰ Under section 45 of the National Electricity Law, the AEMC may conduct a review into the operation and effectiveness of the Rules.

- the desirability for flexibility in the timing associated with the processing of compensation claims under NER clause 3.14.6;
- concerns raised in submissions on the Commission’s draft report on the Synergen Power compensation claim that may be better considered as part of this review; and
- clarifying how AEMO recovers any compensation payable under NER clause 3.14.6 from market customers.

Process and Timing

Under section 45 of the National Electricity Law (NEL), the Commission is conducting this review into the operation and effectiveness of the arrangements for determining and paying compensation under clauses 3.14.6 and 3.15.10 of the NER.

The Commission is committed to conducting this review in an open and transparent manner that provides all interested stakeholders with the opportunity to contribute to the outcome of the review.

The Commission intends to publish a scoping paper for this review, to identify the range of issues to be considered in this review and seek stakeholder comments about:

- whether the issues we have identified are appropriate; and
- potential ways to address these issues.

The Commission also intends to publish a draft report and final report for this review. The need for formal stakeholder communications, such as a forum or public hearing, will be determined as the review progresses.

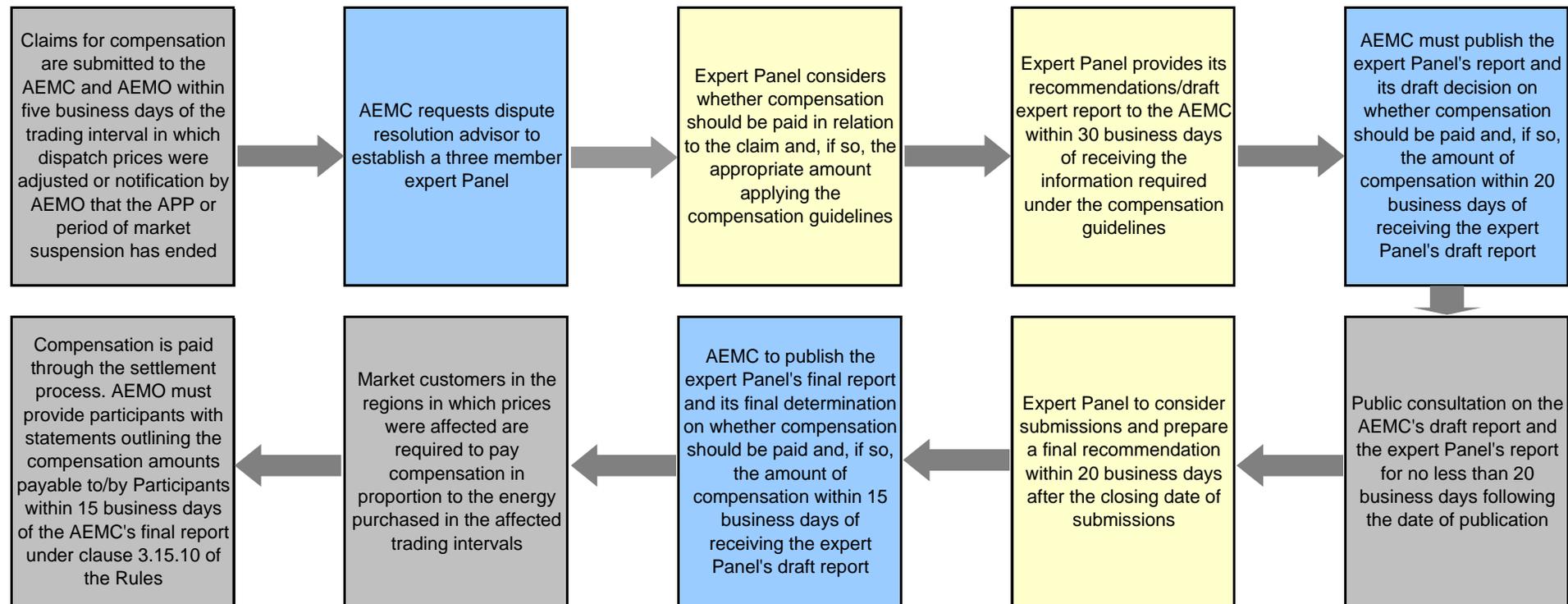
In accordance with section 45(4) of the NEL, a copy of the final report will be provided to the Ministerial Council on Energy (MCE) and published on the AEMC’s website.⁴¹

⁴¹ Under section 45(4)(b) of the NEL, confidential information is to be omitted from the published version of the final report.

B Process diagram

The process and associated timeframe for determining compensation are described in figure B.1 below. The coloured boxes indicate the areas of responsibility as they relate to the AEMC (blue boxes) and the Panel (yellow boxes).

Table B.1



C Compensation related provisions in the Rules

Table C.1 below lists the other compensation related provisions in the Rules.

Table C.1

Reasons for compensation	NER clause(s)	Who determines compensation?	Who is eligible for compensation?	Who pays compensation?	Is an external party used?
Market intervention by AEMO	NER clauses 3.12.2 and 3	AEMO	Affected participants and market customers (other than a market customer which was the subject of any direction)	AEMO - recovered from market customers in the regions benefiting from the intervention	Yes - independent expert used if affected participant's adjustment claim or market customer's additional claim meet specific threshold criteria or AEMO considers claim unreasonable
Directions	NER clause 3.15.7	AEMO	Directed participants - directed to provide energy or market ancillary services	AEMO - recovered from market customers in each region benefitting from the direction in proportion to customer energy	No - formula provided in NER clause 3.15.7(c)
Directions	NER clause 3.15.7A	AEMO	Directed participants - directed to provide services other than energy or market ancillary services	AEMO - recovered from registered participants in the same proportion as the largest single fixed component of participants' fees	Yes - to determine the fair payment price for the services

Reasons for compensation	NER clause(s)	Who determines compensation?	Who is eligible for compensation?	Who pays compensation?	Is an external party used?
Directions	NER clause 3.15.7B	AEMO	Directed participants - for additional compensation	AEMO - recovered from market customers in each region benefitting from the direction in proportion to customer energy	Yes - in certain circumstances
Reductions in maximum total payment in respect of a financial year	NER clause 3.15.24	Formula provided in the Rules; AEMO determines interest payable	Market participants - suffered a reduction in payment under NER clause 3.15.23	AEMO - recovered from person whose default gave rise to reduction	No - formula provided in NER clause 3.15.23
Scheduling errors under NER Chapter 3	NER clause 3.16	Dispute Resolution Panel	Scheduled Generators, Semi-Scheduled Generators and Scheduled Network Service Providers	Participant compensation fund - component contributed through participant fees under NER clause 2.11	Yes - the Dispute Resolution Panel