



**Government  
of South Australia**

Department for Manufacturing,  
Innovation, Trade,  
Resources and Energy

# Bidding in Good Faith Rule change proposal

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[www.dmitre.sa.gov.au](http://www.dmitre.sa.gov.au)

# NEM Ministers 2002 Statement

- Opposed generator bidding and rebidding strategies that were inconsistent with efficient, competitive and reliable market.

# Good Faith provision

- Good Faith provision implemented to:
  - Provide assurance to market participants
  - Provide flexibility to generators
  - Allow intent to be inferred in absence of change in circumstances
  - \$1 million penalty assigned

# Stanwell case

- Uncertainty establishing genuine intentions
- Consideration of new information
- Implies requirement for information re trader's state of mind

# Subjective Expectations

- Subjective expectation treated as material condition and circumstance
- Unchanged price may represent change in material condition and circumstance
- Clearly not what was intended by original Rule

# Extrinsic material not considered

- Ordinary meaning of the bidding clause should be equivalent to intended purpose
- If any doubt, provisions should be amended

# Responding to known market conditions

- Rebidding in response to known conditions
- Timing of rebids

# Materiality

- Ambiguity around term 'material'
- Wide interpretation can result in many rebids



# Scope of Issue

- Growing importance of pre-dispatch forecasts
- Demand side wholesale market mechanism
- Small Generation Aggregator

# Aims

- Amending clauses 3.8.22A and 3.8.22 to reflect original intent
- Maintain ability to rebid

# Benefits and Costs

- Strengthen regulatory framework
- Enhance economic efficiency during high demand periods
- Promote certainty and competition
- Protect long-term consumer interests
- Restore policy intent of MCE
- Information to substantiate offers must be kept



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**Thank you**