

Our ref: ERC0016/25080

7 February 2007

Mr Roger Oakley  
Southern Generators  
c/- PO Box 656  
Collins Street West  
Melbourne Vic 8007

Email: roakley@lymmco.com.au

Dear Roger,

**Request for a pre-determination hearing in relation to the draft Rule determination and draft Rule for the Abolition of the Snowy Region**

I confirm receipt of your request of 2 February 2007 on behalf of the Southern Generators for a pre-determination hearing in relation to the draft Rule determination and the draft Rule for the Abolition of the Snowy Region (referred to as the draft Rule determination).

When a person requests a pre-final Rule determination hearing under section 101 of the National Electricity Law (NEL), the Commission is required to consider that request and make a decision whether or not to hold a hearing. If the Commission decides to hold a pre-determination hearing it must be held within three weeks of publication of the notice of the draft Rule determination ("the section 99 notice" - (see s.101(4)(a) of the NEL)). That is, the hearing you have requested would have to be held on or before 15 February 2007. Section 101(2) of the NEL also provides that the Commission may decide not to hold a hearing in relation to a draft Rule determination and section 101(3) requires the Commission to provide reasons in writing if it decides to decline a request for a hearing.

Having considered your request, the Commission has decided not to hold a hearing on or before 15 February 2007 under the provisions of section 101 of the NEL. The Commission sets out its reasons for this decision below.

As previously advised on 2 February 2007 in conversations with Tendai Gregan and myself, and before receiving advice of your request, the Commission had anticipated that stakeholders would expect an opportunity to participate in a publicly held discussion forum, and had already announced and made arrangements to hold a Consultation Forum on the draft Rule determination. This Forum is to be held at the Melbourne Airport Hilton Hotel on 22 February 2007. The venue and date for the Forum were chosen to provide convenient access for interstate stakeholders and sufficient time for preparation on this complex market design matter.

The purpose of the Forum is to allow the Commission to explain the basis of the draft Rule determination and to hear the views of interested stakeholders on the Commission's supporting analysis and reasoning. Snowy Hydro, the Southern Generators Group, and other interested stakeholders have been invited to make presentations at the Forum and an opportunity will also be provided for questions and comments from the floor.

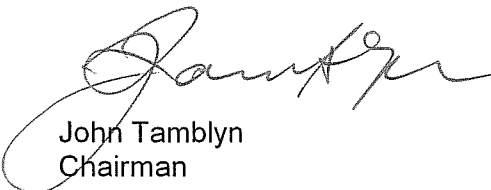
Although the Consultation Forum is not a formal hearing under section 101, it has been organised and will be conducted so that it meets the substantive requirements of the section and will provide an equivalent opportunity for public participation as sought by the Southern Generators in requesting a formal section 101 pre-determination hearing.

The Commission does not consider it necessary or appropriate to agree to hold an additional hearing on or before 15 February, as would be required by s.101. Nor does the Commission consider there is any additional gain if the Forum on 22 February is part structured as a pre-determination hearing, as this may lead to some confusion. Similarly, the request to schedule an additional hearing for a date after the Forum as you have suggested is not considered necessary. The Commission has had regard to the interests of other stakeholder participants in choosing the date and venue for the Forum and considers that those broader interests would not now be best served by a hearing held on or before 15 February.

The Commission has therefore decided not to hold a pre-determination hearing under s.101 on the basis that the Commission's arrangements for the Consultation Forum on 22 February are now at an advanced stage, and the Commission considers that the substantial purpose of a hearing under s.101 of the NEL will be achieved by that Forum. The Commission would like to reassure the Southern Generators group that it will be afforded the opportunity to participate in the Forum along with other interested stakeholders.

Should you have any questions, please contact Adrian Kemp, A/Senior Director on (02) 8296 7800.

Yours sincerely



John Tamblyn  
Chairman