

**DETERMINATION OF THE MARKET SURVEILLANCE AND COMPLIANCE PANEL
MSCP/2006/D1**

Market Surveillance and Compliance Panel (“MSCP”)

Mr Joseph Grimberg, Chair

Professor Lim Chin

Mr Lee Keh Sai

Mr TPB Menon

Mr David Wong

Date of Determination

24 February 2006

Party

SembCorp Cogen Pte Ltd (“SembCorp”)

Subject

Offer Variations After Gate Closure for April and May 2005

1. During May 2005 (all dates stated in this Report refer to the year 2005 unless otherwise stated) the Market Assessment Unit (“MAU”), in the course of carrying out its duties, observed that SembCorp (“SembCorp”) might have committed breaches of section 10.4.1 of Chapter 6 of the Singapore Electricity Market Rules (“the Rules”). That section provides as follows:-

“No offer variation or revised standing offer shall be submitted by or for a market participant within 2 hours immediately prior to the dispatch period to which the offer variation or revised standing offer applies, except:

10.4.1.1 where it is intended:

- (a) for a generation registered facility, to reflect its expected ramp-up and ramp-down profiles during periods following synchronization or preceding desynchronization; or

- (b) for a generation registered facility, to reflect its revised capability during a forced outage; or
- (c) to contribute positively to the resolution of an energy surplus situation by allowing for decreased supply of energy; or
- (d) to contribute positively to the resolution of energy, reserve or regulation shortfall situations by allowing for increased supply of energy, reserve or regulation; and

10.4.1.2 where the price so offered, other than for additional quantities of energy, reserve or regulation, is the same as that previously offered for that dispatch period.”

2. The apparent breaches involved both offer variations and revised standing offers after gate closure, for energy, regulation and reserves, and occurred as follows:

April 16 / 1300 - 1400 hr (Periods 27-28)
 April 21 / 0230 - 0800 hr (Periods 6-16)
 April 28 / 0000 - 0130 hr (Periods 1 -3)
 April 30 / 1100 - 1300 hr (Periods 23 -26)
 May 2 / 1400 - 1500 hr (Periods 29 - 30)
 May 14 / 0630 - 1200 hr (Periods 14 - 24)

Mr Lee Teck Huat of the Market Assessment Unit (“MAU”) sent Mr Paul Lim of SembCorp an email on June 17 to remind him to provide reasons as to why these offer variations after gate closure had taken place. Mr Lee also telephoned a Mr Derek Miranda of SembCorp by way of a further reminder on 23 June. On July 7, Mr Lee sent Mr Lim (and Mr Derek Miranda) yet another reminder, requesting a response by July 11.

SembCorp responded by two faxes dated 11 July. Its explanations were brief, and were in the following terms:

“(i) April 16, 2005 (batch numbers 68042, 68041, 68039, 68038, 68035)

“Communication link between Plant DSC and local control experiencing problems. Needed to switch AGC off and maintain steady load to ensure plant stability while problem was being rectified.”

(ii) April 21, 2005 (batch numbers 68316-68319)

“One control valve was presenting sticking problems. Decision to dispatch at minimum load at 250 MW to maintain plant stability”

“(iii) April 30, 2005 (batch number 69083)

“Previous submission omitted reserve proportionality factor, resulting in non-dispatch of contingency reserve. Resubmitted variation offer to supply contingency and arrest shortfall of contingency reserve”

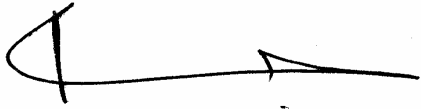
No explanations were received with regard to the apparent breaches that occurred on April 28, May 2 and May 14.

3. MAU notified MSCP of SembCorp's responses and MSCP, not being satisfied with SembCorp's explanations, caused SembCorp to be served with two formal Notices dated September 28 pursuant to section 7.2.3 of Chapter 3 of the Rules, informing SembCorp that MSCP was prima facie of the view that SembCorp had breached section 10.4.1 of Chapter 6 of the Rules.
4. SembCorp was invited to make written representations and, if it wished, to request a hearing. MSCP received a response from SembCorp by letter dated October 11. The letter stated that the response was made "after thorough investigation." By its letter, SembCorp admitted the breaches, and set out the factors which it asked MSCP to take into account in mitigation. SembCorp also asked for a hearing.
5. On December 29 2005, MSCP wrote to SembCorp at length, acknowledging SembCorp's admission of the breaches and setting out the issues which would arise at the hearing requested by SembCorp. MSCP's letter also stated that SembCorp would be asked to explain what appeared to be the somewhat casual and belated manner in which SembCorp had responded to MAU's queries, and certain apparently inconsistent explanations offered by SembCorp at different times, namely by its faxes dated July 11, on the one hand, and its letter of October 11 on the other. MSCP's letter of December 29 went on to indicate that SembCorp's submissions at the hearing could be made either orally or in writing. The hearing was fixed to take place on February 13, 2006. Prior to the hearing, SembCorp submitted a lengthy written submission dated February 8, 2006.
6. The hearing duly took place on February 13, 2006. SembCorp was represented by Mr Paul Lim, Mr Vimalayan Subramaniam, and Mr Michael Khoo. They relied substantially on SembCorp's written submission of February 8, 2006, but answered a number of supplementary questions addressed to them by MSCP, arising from that submission.
7. At the conclusion of the hearing MSCP indicated that it would take time to consider SembCorp's written explanations, and the oral submissions made on its behalf at the hearing. MSCP has now done so, and it concludes as follows:-
 - (i) SembCorp breached the Rules on the dates and during the periods referred to in paragraph 2 of this Report, as admitted by SembCorp. It acknowledged and accepted responsibility for the breaches.
 - (ii) The breaches resulted from failures in control over the activities of certain of SembCorp's traders, and their lack of understanding of the Rules.
 - (iii) Weakness in SembCorp's systems allowed traders who had committed the breaches to proffer the explanations which were furnished to MSCP in SembCorp's two brief faxes of July 11. These faxes had not been cleared or authorised. The same systemic failures had resulted in SembCorp's late responses to MSCP's requests for explanations; in SembCorp's failure to explain the breaches of May 2 and May 14; and in SembCorp's explanations being inconsistent, in some instances. MSCP accepts that there was no intention on the part of SembCorp to mislead, and finds that there was no evidence of

deliberate lack of candour on SembCorp's part. However, SembCorp's initial responses were both belated and unsatisfactory.

- (iv) SembCorp informed MSCP that it has overhauled its internal procedures to ensure that the same, or similar breaches do not occur again. Nonetheless, the facts disclose a lack of due diligence on the part of SembCorp in failing to earlier establish systems which could have enabled them to avoid the breaches.
 - (v) There was no, or no significant, impact on wholesale electricity market prices which were clearly attributable to SembCorp's breaches of the Market Rules.
 - (vi) SembCorp did not adequately explain why some of its offer variations had involved indirect price changes.
 - (vii) SembCorp explained that its breaches in relation to SAKRA G2 for May 14 periods 14 to 18 were to protect the integrity of the steam supply to the petrochemical hub on Jurong Island. The MSCP does not consider that this explanation excuses the breaches in question.
8. On the issue of penalties, MSCP refers to its notification to market participants on April 6, which stated:-
- “Enforcement Action
- With effect from 15 April 2005, enforcement action will be taken in appropriate cases where there is found to be a breach of the market rules in relation to offer variations or revised standing offers after gate closure.
- The MSCP may take any enforcement action provided for under the market rules in such cases.
- As a guide, a minimum financial penalty of \$1000 plus costs will be imposed for each breach. For this purpose, a prohibited offer variation or revised standing offer made in relation to a particular generation registered facility for a particular product for a particular period will be considered as one breach.
- More severe enforcement action will be taken for subsequent or repeated breaches, as may be appropriate.”
9. The breaches were committed within a short period of time, the initial responses to requests for information were unsatisfactory, and there was a lack of due diligence in setting up procedures which could have prevented the breaches from occurring. That said, MSCP has taken into account all the mitigating factors referred to in paragraph 7 of this Report and imposes a total financial penalty of \$66,000.

10. MSCP orders the payment by SembCorp of the costs, including the costs of investigation and of the hearing, in the sum of \$23,000.

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a horizontal line that ends in a small upward-pointing arrowhead.

Joseph Grimberg
Chair
Market Surveillance and Compliance Panel