



# **Report by Dispute Resolution Counsellor**

**April 2003 to March 2004**

***16 July 2004***

**This report is prepared for the Energy Market Company Pte Ltd and  
the Energy Market Authority.**

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## **INTRODUCTION**

This is a report by the Dispute Resolution Counsellor (“DRC”) on dispute resolution in relation to the wholesale electricity markets of the National Electricity Market of Singapore (“NEMS”) from 1 April 2003 to 31 March 2004.

## **DISPUTE RESOLUTION INSTITUTIONS**

The dispute resolution institutions for the wholesale electricity markets of NEMS comprise the DRC and the group from which a Disputes and Compensation Resolution Panel (“DCRP”) may be selected to carry out an arbitration when necessary. The members of the group are:

- (a) Associate Professor Lawrence Boo;
- (b) Mr Naresh Mahtani;
- (c) Associate Professor Tan Cheng Han SC;
- (d) Mr Tan Ching Tiong; and
- (e) Mr George Tan.

## **MARKET ASSESSMENT UNIT**

The Market Assessment Unit (“MAU”) of the Energy Market Company Pte Ltd (“EMC”) supports the dispute resolution process for the wholesale electricity markets of NEMS and assists the DRC and DCRP group in discharging their functions.

I have been working closely with the MAU in considering dispute resolution issues since taking on the role of the DRC.

## **DISPUTE RESOLUTION PROCESS**

The dispute resolution process under the Singapore Electricity Market Rules at present generally comprises:

- a First Stage Dispute Resolution Process where parties endeavour to resolve disputes on their own; and
- a Second Stage Dispute Resolution Process where disputes not resolved through the First Stage are subject to arbitration.

## **DISPUTES**

### **Requests for Assistance and Dispute Referrals**

Parties who wish to raise a dispute under the First Stage Dispute Resolution Process do so by serving a notice of dispute on the party or parties. They do not have to serve a notice of dispute with the DRC. However, they may invite the DRC to assist in facilitating the resolution of the dispute. During the period 1 April 2003 to 31 March 2004, I did not receive any requests for such assistance.

A party desiring to have a dispute resolved under the Second Stage Dispute Resolution Process has to refer the dispute to the DRC. During the period April 2003 to March 2004, I did not receive any dispute referrals.

## **EDUCATION AND DEVELOPMENT**

### **Education Forums**

On 9 April 2003, the DRC and the MAU organised an education forum for the then newly-appointed members of the DCRP. The purpose of the education forum was to provide the members of the DCRP with insights into the wholesale electricity markets. Mr Allan Dawson, CEO, EMC, Mr Yip Pak Ling, General Manager, Market Operations, EMC and Ms Liew Siok Fang, Manager, MAU gave presentations on various aspects of the wholesale electricity markets during the forum.

To ensure that the dispute resolution institutions will be familiar with the operations of the wholesale electricity markets of NEMS and ready to discharge their functions should a dispute arise, we have been invited by the EMC to attend Market Knowledge Sharing Sessions where presentations are given to the EMC's staff by market players on their respective roles in the electricity market. Where possible, the members of the DCRP group and I have accepted the invitation. We have found these sessions useful.

### **Study Visit to Australia**

From 15 to 18 March 2004, Mr Tan Soo Kiang, Chairman, EMC and I made a visit to the National Electricity Market of Australia ("NEM") to carry out an in depth study of the Australian experience in developing their dispute resolution process.

In 2002, several changes were made to the dispute resolution process in Australia as a result of a major review of the dispute resolution process undertaken by the Australian Dispute Resolution Adviser, Ms Shirli Kirschner. As several of our dispute resolution rules appear to be similar to those in NEM before the changes, we felt that it would be useful to find out the reasons for those changes. We also wanted to understand how we could modify our rules to improve the dispute resolution process for the Singapore market.

The other objectives of the visit were to make contact with persons involved in NEM's dispute resolution process with a view to collaborating with them on joint programmes relating to information exchange, training and speaking engagements.

During the visit, the Australian parties that we met with included:

- (a) the Dispute Resolution Adviser;
- (b) Dispute Resolution Panel members;
- (c) representatives of the market operator, NEMMCO, and their solicitors;
- (d) representatives of the grid owner, Transgrid;
- (e) representatives of generators and retailers, and their solicitors; and
- (f) a consultant providing expert witnesses for electricity market disputes.

It was a fruitful visit as the Australian parties we met were very forthcoming with their knowledge. Based on their own experiences, they provided us with many insights as to how the dispute resolution framework in our market could be improved for the benefit of the Singapore market.

Upon my return, a detailed report on the study visit was prepared and submitted to the CEO, EMC.

## **Review of the Dispute Resolution Process**

In the past year, the MAU and I commenced an extensive review of the dispute resolution arrangements for the wholesale electricity markets of NEMS with the aim of improving the current framework in the market rules.

In the course of the review, we also did a comparative study of the dispute resolution framework in other electricity markets such as Ontario, PJM, California, New England and Australia. The main thrust of the review is to create a fair, efficient and cost-effective dispute resolution process which benefits market players.

A proposal for improving the current dispute resolution framework was put forth to market players on 12 June 2004 for their views. We have received general indications of support for the proposal, key aspects of which are as follows:

### **1. Adopt a comprehensive and holistic approach to dispute resolution**

Parties in dispute are first encouraged to resolve disputes by themselves through negotiation and if this fails, to attempt to resolve the dispute through mediation. Disputes are resolved through arbitration as a last resort.

### **2. Make mediation an integral part of the process**

Parties commit to resolve the dispute amicably right from the beginning. Mediation is a process that saves time and costs for parties who are in dispute. Mediation helps parties to work out a solution to their dispute that serves their mutual interest. It also helps to preserve business relationships in the small electricity community.

### **3. Provide parties with a one-stop centre for dispute resolution**

Currently, it is mandatory for disputes involving the EMC and the power system operators, PSO, under the market rules and manuals to be resolved under the dispute resolution process in the market rules. However, it is not the case for other disputes. The proposal is for the market to have a one-stop centre for dispute resolution by extending the coverage of the dispute resolution process to include: (i) all disputes arising from the market rules and manuals; and (ii) disputes arising from agreements between the parties in relation to the wholesale electricity markets of NEMS.

### **4. Define role of the Dispute Resolution Counsellor**

The proposal is for the Dispute Resolution Counsellor to act as a case manager in the dispute resolution process ie he monitors disputes from the start and guides the parties through the dispute resolution process. He will not be involved in mediating or arbitrating the dispute but will help market players set up their dispute management systems and provide training in negotiation and mediation.

### **5. Create strong and independent Disputes and Compensation Resolution Panel**


As mentioned earlier, there are at present 5 persons in the DCRP group for conducting arbitrations. The proposal is to appoint a Mediation Panel comprising 5 members and an Arbitration Panel comprising 10 members, including foreign arbitrators who are experienced in

arbitrating electricity market issues. This is to give market players adequate choice of independent and experienced arbitrators. These panel members are paid by disputing parties for their services only when such services are utilized.

Based on the positive indications received for the above proposal, the MAU and I are proceeding to prepare a detailed draft of the proposed rule changes for industry consultation.

## **CONCLUSION**

For any dispute resolution process to work, the support of all market players is critical. I look forward to the assistance and continued support of all market players in the coming year.



George Lim  
Dispute Resolution Counsellor  
16 July 2004