

RCP PAPER NO. : **EMC/RCP/50/2010/CP27**

SUBJECT : **Conflict of Interest for Dispatch Coordinator**

FOR : **DECISION**

PREPARED BY : **HENRY WEE  
SENIOR ANALYST**

REVIEWED BY : **PAUL POH LEE KONG  
SVP, MARKET ADMINISTRATION**

DATE OF MEETING : **3 September 2010**

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### **Executive Summary**

A proposer raised the concern that conflict of interest may arise when a dispatch coordinator (DC) of a market participant (MP) acts as a DC of another MP and thus proposed to restrict using an agent as a DC of a MP. We understand that the proposer's concern about conflict of interest relates to potential uncompetitive outcomes or potential market power issues that may arise when a DC of a MP acts as a DC of another MP.

The paper first looks at the existing market rules on the requirements for a DC, the role of a DC, and using an agent (i.e. a third party) as a DC. We then examine the existing provisions in the Electricity Act and an electricity licence condition that address potential market power issues. With these facts in place, we provide an analysis of whether the market rules should be changed to restrict using an agent as a DC of a MP.

Based on our analysis, we think it is more appropriate for market power issues resulting from the use of agent DCs to be addressed through EMA policy and/or the license conditions of MPs since:

- a) EMA has the authority to determine what constitutes the distortion of competition or the abuse of dominant position, and to take action to bring any infringement of sections 50 and 51 to an end (sections 59 of the Electricity Act).
- b) EMA has the authority to impose licence conditions to deal with market power issues (section 9 of the Electricity Act).

During our consultation process, one other point raised was whether condition 2.2 of a generation licensee's Electricity Licence would require a generation licensee to seek EMA's prior approval before it can act as a DC of another MP.

At the 50<sup>th</sup> RCP meeting on 6 July 2010, the RCP agreed with EMC's recommendation for

the RCP to write to the EMA regarding the concern raised (i.e. the potential market power issues if an MP acts as the agent DC for another MP) and – since such market power issues are best handled by EMA – request for EMA’s views on whether:

- (i) EMA considers dispatch coordination arrangements as “control”; and
- (ii) a MP with a generator license needs to seek EMA’s prior approval before such MP is allowed to act as the agent DC for another MP.

The EMA replied on 19 July 2010 (see attached letter, Annex 2) with its views:

- i. Under the market rules, for EMC to register a GRF, it must be demonstrated to EMC that the proposed DC of the GRF has the necessary operational control to ensure delivery of physical services by the GRF.
- ii. Where the proposed DC of a MP’s GRF is other than that MP, EMA will require:
  - (a) that MP to seek EMA’s approval; and
  - (b) EMC to ensure that EMA’s approval has been obtained before EMC approves the appointment of the proposed DC under the market rules.

Since EMA will require the MP that wishes to appoint an agent DC for its GRF(s) to seek its prior approval, there will be a check in place to mitigate potential market power concerns arising from MPs appointing agent DCs. EMC thus recommends that no changes be made to the market rules or manuals to restrict using an agent as a DC of a MP.

However, going forward, during the facility registration process, should the MP registering its facility wish to appoint an agent DC (i.e. an MP other than itself) for its GRF, EMC will request the registering MP to submit a copy of EMA’s approval for it to appoint that agent DC before EMC accepts such appointment under the market rules.

At the 51st RCP meeting on 3 September 2010, having taken into consideration the approval required by EMA and the additional procedure put in place during facility registration by EMC, the RCP unanimously agreed with the recommendation not to make any changes to the market rules or manuals and hence not to support this proposal.

## 1. Introduction

The Singapore Wholesale Electricity Market (SWEM) has been going through progressive evolution since its inception. In particular, ownership changes to existing large players as well as participation from new generators were observed in the recent years. With this observation in mind, a proposer raised the concern that conflict of interest may arise when a dispatch coordinator (DC) of a market participant (MP) acts as a DC of another MP. Thus, the proposer proposed to restrict a DC of a MP from acting as a DC of other MP(s). We understand that the proposer's concern about conflict of interest relates to potential uncompetitive outcomes or potential market power issues that may arise when a DC of a MP acts as a DC of another MP.

To lay the ground – we first look at the existing market rules on the requirements for a DC, the role of a DC, and using an agent (i.e. a third party) as a DC. We then examine the existing provisions in the Electricity Act and an electricity licence condition that address potential market power issues. With these facts in place, we provide an analysis of whether the market rules should be changed to restrict using an agent as a DC of a MP.

## 2. Existing Provisions in the Market Rules

### 2.1 Appointment of a DC during facility registration

When a MP applies for the registration of its facility(s) as a generation registered facility (GRF), it is required – among other requirements – to register a MP as the DC for such facility(s)<sup>1</sup>. This gives the registered DC the authority to submit dispatch data<sup>2</sup> with respect to the GRF. It is worth noting here that a generation settlement facility (GSF) is not required to have a DC as GSF(s) are not required to submit offers.

### 2.2 The role of a DC

The role of the DC, in addition to submitting dispatch data for the GRF, is spelled out over various sections in the market rules.

For reference, we have summarized the role, and ensuing responsibilities, of the DC as such:

- a) Ensure that the facility has the ability to provide reserve, as offered into the SWEM [section 4.5.8 of Chapter 5]
- b) Ensure that the facility meets the provisions stated in any ancillary service contract(s) [section 8.3.6 of Chapter 5]
- c) Use default dispatch instructions, when necessary [section 9.1.5 of Chapter 5]
- d) Ensure that the facility is ready and able to respond to AGC when it is on AGC; if the facility is not on AGC, ensure that the facility is ready to ramp up to the required level of output as per dispatch instruction [sections 9.2.2 and 9.2.3 of Chapter 5]
- e) Ensure compliance with dispatch instructions from PSO, except where it is otherwise permitted under the market rules [section 9.6.1 of Chapter 5]
- f) Communication with PSO:
  - i. When DC expects the facility to deviate materially from dispatch instructions [section 9.6.2 of Chapter 5]

<sup>1</sup> This requirement is stated in Section 5.2.1.1 of Chapter 2 of the market rules.

<sup>2</sup> Dispatch data means offers submitted in accordance with the market rules.

- ii. When DC expects the facility to depart from dispatch instructions due to reasons related to safety, substantial equipment damage, or violation of the Law [section 9.6.3 of Chapter 5]
- iii. Explanation for non-compliance with dispatch instructions [section 9.6.5 of Chapter 5]
- iv. Seeking approval for synchronisation or desynchronisation, and responding to PSO's approval or rejection, before taking any action on the facility [sections 11.2 and 11.3 of Chapter 5]
- g) Ensure submissions of revised standing capability data as required to the PSO [sections 4.1.2 and 4.1.4 of Chapter 6]
- h) Ensure that all submissions (standing offers, revised offers) comply with the market rules [sections 5.1.4 to 5.1.7, 5.3.8 and 5.5.1 of Chapter 6]
- i) Ensure that all necessary confirmations required from the PSO/EMC as per the market rules are received by DC; if confirmations are not received, to notify the PSO/EMC [sections 4.3.2 and 5.6.2 of Chapter 6]

### 2.3 Use of an Agent as a DC

From the start of the SWEM, provisions in the market rules were in place for a MP (the principal) to use agents<sup>3</sup> to assist in performing the MP's obligation under the market rules, market manual or the system operation manual. In such arrangements, the MP remains responsible and liable for all the acts or omissions of its agents and any performance obligation between itself and the EMC/PSO. The use of agents is allowed as long as it is not stated otherwise in the Electricity Act, the MP's electricity licence or the market rules. At this moment, we are not aware of any specific restrictions stated in the Act, an MP's electricity licence or the rules on the use of agents.

Thus, the market rules allow a MP to use another MP as its DC. We note that since the inception of the SWEM, no MP has registered another MP to be the agent DC for its GRF(s).

### 3. Legislation and Governance on Market Power

The Electricity Act has spelled out in sections 50 and 51 of part VII, what constitutes the distortion of competition or the abuse of dominant position, especially in areas pertaining to agreements and decisions taken by any participant or concerted practices by a few participants. Section 59 also gives the EMA the power to take actions to bring any infringement of sections 50 and 51 to an end.

In addition, section 9 of the Act allows the EMA to impose conditions in electricity licences it issues. We note that a licence condition is imposed on some dominant generators, which gives the EMA the power to direct the licensee into certain agreement(s) for the purpose of mitigating the potential misuse of market power<sup>4</sup>.

The EMA's policy on self-supply of electricity, issued on 21 April 2008, allows a company to – under certain conditions - install embedded generating units on land that is non-contiguous with its load facilities and/or outsource embedded generating units by engaging third parties to

<sup>3</sup> See section 6.4 of Chapter 1 of the market rules.

<sup>4</sup> This licence condition states that the licensee shall enter into such agreements or arrangements with such person or persons as may be directed by the Authority, on such terms and conditions as may be specified by the Authority, for the purpose of mitigating the misuse or possible misuse of market power by the licensee.

develop, own and operate such units. However, outsourcing of embedded generating units would not be allowed if doing so creates market power or adds to the existing market power of that company.

#### 4. Analysis

The market rules provides for a MP to appoint agents to assist in performing the MP's obligations because it may be more cost effective to do so. For example – two or more small generators (GRFs) which are obliged to submit offers into the SWEM and comply with other obligations of the market rules may enjoy economies of scale by using an agent to act as DCs for them. The benefits could come from cost savings in terms of shared services and infrastructure set-up from the agent. Naturally, it is for the agent to prove its independence – it is also the prerogative of all counterparties to create win-win terms in their commercial agreements.

The concern raised in the proposal is the potential conflict of interest in an arrangement where a DC of a MP acts as a DC for another MP, resulting in potential abuse of market power or uncompetitive outcomes. What is a conflict of interest? In general, a conflict of interest arises when an individual or an organisation has multiple interests in separate organisations such that - with control/influence over these organisations - it can act in the interest of one organisation against the other and stands to gain from doing so.

While we recognise that a MP appointing an agent could result in a conflict of interest, it would be reasonable to assume that both were willing parties who – having chosen to engage in such an arrangement - would agree on mutually suitable and beneficial commercial terms for the agreement governing this arrangement. At any point where one party is disadvantaged, it can always choose to exit the agreement or not renew it.

We also recognise that a MP appointing another MP as its DC could result in an increase in the existing market power of the MP appointed as DC. However, it seems more appropriate that such restrictions be made through EMA policy and/or the license conditions of MPs since:

- c) EMA has the authority to determine what constitutes the distortion of competition or the abuse of dominant position, and to take action to bring any infringement of sections 50 and 51 to an end (sections 59 of the Electricity Act).
- d) EMA has the authority to impose licence conditions to deal with market power issues (section 9 of the Electricity Act).

#### 5. Consultation

This paper was published for comments on 24 May 2010 and received comments from Senoko Energy. Their comments and EMC's response are as follow:

##### Comments from Senoko Energy

There are potential concerns if a genco that is already deemed to hold market power is able to act as a dispatch coordinator for third party facilities thereby effectively increasing their market influence. The EMA, as the body responsible for market power mitigation, imposes restrictions on genco's controlling generation units that are not listed in Schedule A of their Electricity Licence. It would be useful to confirm that the EMA considers dispatch coordination arrangements as "control" and hence that the EMA's prior approval is required before shared dispatch coordination can occur.

Reply from EMC

We recognize your concerns and have highlighted in the paper that market power issues are best handled by the EMA given its vested powers and role as the regulator.

We understand that Senoko Energy is referring to condition 2.2 of their generation license which states that *“the licensee shall not acquire, own, operate or have control over any generating unit, other than the generating units set out in Schedule A to this licence, without the prior written approval of the Authority”*. We note that this condition is common among all existing generation licensees<sup>5</sup>.

We are recommending that the RCP write to the EMA regarding the concern raised that potential market power issues could arise when a MP acts as a DC of another MP, to seek the EMA’s views on whether EMA considers dispatch coordination arrangements as "control" and whether a MP with a generator license is required to seek EMA's prior approval before it is allowed to act as a DC of another MP.

**6. 50<sup>th</sup> RCP Meeting**

At the 50<sup>th</sup> RCP meeting on 6 July 2010, the RCP agreed to EMC recommendation for the RCP to write to the EMA regarding the concern raised (i.e. the potential market power issues if an MP acts as the agent DC for another MP) and, since such market power issues are best handled by EMA, request for EMA’s views on whether:

- (i) EMA considers dispatch coordination arrangements as “control” and
- (ii) a MP with a generator license needs to seek EMA’s prior approval before such MP is allowed to act as the agent DC for another MP.

Please refer to Annex 1 for the letter sent to EMA on the 7 July 2010.

**6. Post 50<sup>th</sup> RCP Meeting**

The EMA replied on 19 July 2010 (see attached letter, Annex 2) with its views:

- i. Under the market rules, for EMC to register a GRF, it must be demonstrated to EMC that the proposed DC of the GRF has the necessary operational control to ensure delivery of physical services by the GRF.
- ii. Where the proposed DC of a MP’s GRF is other than that MP, EMA will require:
  - (a) that MP to seek EMA’s approval; and
  - (b) EMC to ensure that EMA’s approval has been obtained before EMC approves the appointment of the proposed DC under the market rules.

Going forward, during the facility registration process – should the MP registering its facility wish to appoint an agent DC (i.e. an MP other than itself) for its GRF, EMC will request the registering MP to submit a copy of EMA’s approval for it to appoint that agent DC before EMC accepts such appointment under the market rules.

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<sup>5</sup> As at 17 June 2010, as reflected on EMA website, the following generation licensees are subjected to this condition – ExxonMobil Asia Pacific Pte Ltd, Island Power Company Pte Ltd, Keppel Merlimau Cogen Pte Ltd, Keppel Seghers Tuas WTE Pte Ltd, National Environment Agency, PowerSeraya Ltd, Shell Eastern Petroleum Pte Ltd, Senoko Energy Pte Ltd, Senoko WTE Pte Ltd, Tuas Power Generation Pte Ltd.

**7. Recommendation**

Since EMA will require the MP that wishes to appoint an agent DC for its GRF(s) to seek the Authority's prior approval, there will be a check in place to mitigate potential market power concerns arising from MPs appointing agent DCs. EMC thus recommends that no changes be made to the market rules or manuals to restrict using an agent as a DC of a MP, and hence for this proposal not be supported by the RCP.

**8. Deliberation at the 51<sup>st</sup> RCP Meeting**

Taking into consideration the approval required by EMA and the additional procedure put in place during facility registration by EMC, the RCP unanimously agreed with the recommendation not to make any changes to the market rules or manuals and hence not to support this proposal.

## Annex 1 – Letter, RCP to EMA



07 July 2010

**Ms Wong Mui Quee**  
Director – Market Development and Regulation  
Economic Regulation & Licensing Department  
Energy Market Authority  
991G Alexandra Road  
#01-29  
Singapore 119975

Dear Ms Wong,

**CONFLICT OF INTEREST FOR DISPATCH COORDINATOR  
(Ref: EMC/RCP/50/2010/CP27)**

At the 50<sup>th</sup> Rules Change Panel (RCP) meeting on 6 July 2010, the RCP considered the issues raised and the recommendations made in the concept paper "Conflict of Interest for Dispatch Coordinator" and would like to highlight the following to the EMA:

At present, there are provisions in the market rules that allow a market participant (MP) to use agents to assist in performing the MP's obligation under the market rules, market manual and system operation manual. However, there were concerns raised by MPs that if a MP acts as the agent dispatch co-ordinator (DC) for another MP, it could create potential market power issues, especially if the agent DC is already a MP deemed to hold market power. As presented in the concept paper, the RCP agreed that it is more appropriate for such market power issues to be managed through EMA's policy and licencing conditions, since:

- a) EMA has the authority to determine what constitutes the distortion of competition or the abuse of dominant position, and to take action to bring any infringement of sections 50 and 51 to an end (sections 59 of the Electricity Act).
- b) EMA has the authority to impose licence conditions to deal with market power issues (section 9 of the Electricity Act).

The RCP also noted that condition 2.2 of all existing generation licensees' Electricity Licence states that:

*"The licensee shall not acquire, own, operate or have control over any generating unit, other than the generating units set out in Schedule A to this licence, without the prior written approval of the Authority".*

For clarity, the panel would like to seek EMA's view on whether it considers dispatch coordination arrangements as "control" and, thus, whether a MP with a generator license needs to seek EMA's prior approval before such MP is allowed to act as the agent DC for another MP.



As mentioned, the purpose of this letter is to highlight the concerns raised by the industry regarding this matter to the EMA as well as to seek clarification. We would appreciate your attention to the above matter, and look forward to receiving your comments on the clarification the RCP seeks. The concept paper is attached for your reference.

Thank you.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'D. Carlson', with a long horizontal stroke extending to the right.

Dave Carlson  
Chair  
Rules Change Panel  
For and on behalf of the RCP

Annex 2 – EMA’s reply to RCP’s letter



Our ref : Tel : 6376 7548  
Your ref : Fax : 6835 8020  
Date : 19 July 2010 Email : wong\_mui\_quee@ema.gov.sg

Chair  
Rules Change Panel  
238A Thomson Road  
#11-01 Novena Square Tower A  
Singapore 307684

Attn: Mr Dave Carlson

Dear Sir

**CONFLICT OF INTEREST FOR DISPATCH COORDINATOR  
(Ref: EMC/RCP/50/2010/CP27)**

I refer to your letter dated 7 July 2010.

2 Under the Market Rules, for EMC to register a generation registered facility (GRF), it must be demonstrated to EMC that the proposed dispatch coordinator (DC) of the GRF must have the necessary *operational control* to ensure delivery of the relevant physical services by the GRF (see Appendix 1 for the relevant rule). In line with this, the Market Rules further set out the operational role and responsibilities of the DC with respect to the GRF (see Appendix 2 for a summary of the role/responsibilities).

3 In view of the above, EMA recognises that market power issues or uncompetitive outcomes may arise if a market participant (MP) is appointed as the DC of another MP's GRF. Therefore, *where the proposed DC of a MP's GRF is other than that MP*, EMA will require: (a) that MP to seek EMA's approval; and (b) EMC to ensure that EMA's approval has been obtained before EMC approves the appointment of the proposed DC under the Market Rules.

Yours faithfully

A handwritten signature in black ink that reads "Wong Mui Quee". The signature is written in a cursive, flowing style.

WONG MUI QUEE (MS)  
DIRECTOR (MARKET DEVELOPMENT AND SURVEILLANCE DEPARTMENT)  
for DEPUTY CHIEF EXECUTIVE  
REGULATION DIVISION

## Appendix 1

**ROLE AND RESPONSIBILITIES OF A DISPATCH COORDINATOR**

The dispatch coordinator (DC) of a generation registered facility (GRF) is the party authorised to submit dispatch data for the GRF. The DC's role and responsibilities are spelt out in the following sections of the Market Rules:

- a) Ensure that the facility has the ability to provide reserve, as offered into the SWEM [section 4.5.8 of Chapter 5]
- b) Ensure that the facility meets the provisions stated in any ancillary service contract(s) [section 8.3.6 of Chapter 5]
- c) Use default dispatch instructions, when necessary [section 9.1.5 of Chapter 5]
- d) Ensure that the facility is ready and able to respond to AGC when it is on AGC; if the facility is not on AGC, ensure that the facility is ready to ramp up to the required level of output as per dispatch instruction [sections 9.2.2 and 9.2.3 of Chapter 5]
- e) Ensure compliance with dispatch instructions from PSO, except where it is otherwise permitted under the market rules [section 9.6.1 of Chapter 5]
- f) Communication with PSO:
  - i. When DC expects the facility to deviate materially from dispatch instructions [section 9.6.2 of Chapter 5]
  - ii. When DC expects the facility to depart from dispatch instructions due to reasons related to safety, substantial equipment damage, or violation of the Law [section 9.6.3 of Chapter 5]
  - iii. Explanation for non-compliance with dispatch instructions [section 9.6.5 of Chapter 5]
  - iv. Seeking approval for synchronisation or desynchronisation, and responding to PSO's approval or rejection, before taking any action on the facility [sections 11.2 and 11.3 of Chapter 5]
- g) Ensure submissions of revised standing capability data as required to the PSO [sections 4.1.2 and 4.1.4 of Chapter 6]
- h) Ensure that all submissions (standing offers, revised offers) comply with the market rules [sections 5.1.4 to 5.1.7, 5.3.8 and 5.5.1 of Chapter 6]
- i) Ensure that all necessary confirmations required from the PSO/EMC as per the market rules are received by DC; if confirmations are not received, to notify the PSO/EMC [sections 4.3.2 and 5.6.2 of Chapter 6]

Appendix 2

**EXTRACT OF MARKET RULES PERTAINING TO DISPATCH COORDINATOR  
AND FACILITY REGISTRATION**

Chapter 2:

"5.2.6 The information required for registration as a *registered facility* shall, subject to any lesser information requirements that may be specified in the applicable *market manual* in respect of the registration of a given class or size of facility, include:

5.2.6.3 information demonstrating that the proposed *dispatch coordinator* for the facility has the operational control necessary to assure delivery or withdrawal of the relevant *physical services* as described in the registration information;"