

**DETERMINATION OF THE MARKET SURVEILLANCE AND COMPLIANCE PANEL
MSCP/2016/D7**

Market Surveillance and Compliance Panel (“MSCP”)

Mr T P B Menon, Chair

Mr Lee Keh Sai

Mr Philip Chua

Professor Euston Quah

Professor Walter Woon

Date of Determination

17 October 2016

Party

Senoko Waste-to-Energy Pte Ltd (“Senoko WTE”)

Subject

Senoko WTE’s appeal for refund of financial penalty for non-compliance event on 4 June 2016

FACTS AND CIRCUMSTANCES

1. Senoko WTE submitted an appeal on 20 June 2016 to the MSCP under section D5.1 of Appendix 5D of Chapter 5 of the Singapore Electricity Market Rules (“market rules”) for a refund of the financial penalty incurred under the automatic financial penalty scheme (“AFPS”) due to a non-compliance event regarding its waste incineration plant GENR 1 on 4 June 2016, period 27.
2. Senoko WTE said that all of its refuse cranes share one common communication processor controlled by a single central processing unit. During periods 26 to 28 on 4 June 2016, the said communication processor module failed due to a faulty electronic component. This activated an interlock which prevented the operation of the refuse cranes by Senoko WTE, thereby hindering the normal feeding of the refuse to Senoko WTE’s hoppers.
3. Senoko WTE also cited in its submission that this led to a series of events regarding fire hazard and environmental infringements.
4. Firstly, the lack of refuse in the hopper created air gap and hot air from the furnace escaped to the hopper, causing smoke to emerge from the hoppers. Senoko WTE said that this was a potential fire hazard if the sparks from the hopper fell and landed on the remaining refuse in the storage bunker. Further, burning of the refuse in the hopper (instead of the furnace) may also cause the hopper chute to overheat and distort.

5. To preserve as much sealing to the hopper as possible, lesser refuse was fed into the furnace. However, where the refuse is too thin, the supply air below the stoker grate would agitate and churn the burning ash, which would increase dust and smoke and contravene the NEA-PCD Environmental Protection Act. Senoko WTE therefore reduced the stoker grate speed, and was, as a result, not able to meet its scheduled output.
6. The scheduled output of GENR 1 was 43 MW while its actual output was 27.5 MW. The deviation of 15.5 MW was above the margin of 10 MW allowed under the AFPS.
7. A financial penalty of \$5,000 was automatically imposed on Senoko WTE for its deviation from the scheduled output.
8. On 10 August 2016, the MSCP requested further information, facts and evidence relating to Senoko WTE's appeal.
9. On 15 August 2016, Senoko WTE replied with its responses to the MSCP's questions.
10. In Senoko WTE's response, it further explained that the function of the communication processor module was to capture the weight of the refuse feeding to the incinerator hopper. The activation of the interlock when the module fails was an original design from National Environment Agency ("NEA") to ensure that all refuse fed into the incinerator hopper is accounted for. Moving forward, Senoko WTE would be engaging NEA to allow them to install a "bypass" for this interlock so that in the unlikely event of future communication processor failure, Senoko WTE would be able to operate the refuse cranes and maintain steam throughput from boilers and the required MWh generation with minimal impacts.

APPLICABLE MARKET RULES

11. Section D.5.1 of Appendix 5D of Chapter 5 provides that

The *market participant* of a deviating *generation registered facility* may appeal to the *market surveillance and compliance panel* for a refund of any financial penalties paid or required to be paid by it under the automatic financial penalty scheme detailed in this Appendix 5D if it can demonstrate to the satisfaction of the *market surveillance and compliance panel* that compliance with a *dispatch instruction* was not required pursuant to one or more of the conditions in section 9.6.3 of Chapter 5. Such appeal shall be made in writing in such form and manner as may be prescribed by the *market surveillance and compliance panel* and shall:

- D5.1.1 contain the name and address of the *market participant* submitting the appeal;
- D5.1.2 contain the particulars of the appeal;
- D5.1.3 contain all information, facts and evidence supporting the appeal; and
- D5.1.4 be accompanied by a copy of the final financial penalty statement setting out the financial penalty which is the subject of the appeal.

A *market participant* shall not submit, and the *market surveillance and compliance panel* may dismiss, an appeal to the *market surveillance and compliance panel* if more than twenty *business days* have elapsed since the date of the issuance of such final financial penalty statement.

12. Section 9.6.3 of Chapter 5 provides that

Compliance with a *dispatch instruction* for a *registered facility* is not required if such compliance would endanger the safety of any person, substantially damage equipment, or violate any *applicable law*. Subject to section 9.3.5, the *dispatch coordinator* for a *registered facility* that departs from *dispatch instructions* for any such reason shall so notify the *PSO* in accordance with section 9.6.2.

13. Section D.5.4 of Appendix 5D of Chapter 5 provides that

If the *market surveillance and compliance panel* determines that the *market participant* referred to in section D.5.1 was not required to comply with a *dispatch instruction* for any given *dispatch period* on the ground that at least one of the conditions in section 9.6.3 of Chapter 5 applies, the *market surveillance and compliance panel* shall:

D5.4.1 allow the *market participant's* appeal in respect of that *dispatch period* submitted under section D.5.1; and

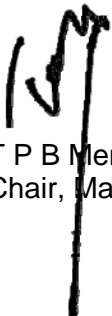
D5.4.2 direct the *EMC* to refund such *market participant* of the relevant financial penalty received by the *EMC* from such *market participant* for that *dispatch period*. Such financial penalty shall be refunded to the *market participant* without interest.

If the *market surveillance and compliance panel* determines that none of the conditions in section 9.6.3 of Chapter 5 applies to the non-compliance with a *dispatch instruction* by a *market participant* referred to in section D.5.1, the *market surveillance and compliance panel* shall dismiss the appeal submitted under section D.5.1. The *market surveillance and compliance panel* shall notify the *EMC* and such *market participant* of its determination under this section D.5.4 and give its reasons for such determination. The *EMC* shall *publish* such determination of the *market surveillance and compliance panel* and its reasons for such determination.

MSCP'S DETERMINATION

14. Based on the information, facts and evidence provided by Senoko WTE in this appeal, the MSCP assessed that the root cause of Senoko WTE's non-compliance with the dispatch instruction from PSO was the failure of a communication processor module.
15. The MSCP is of the view that a purposive approach should be adapted in interpreting section 9.6.3 of Chapter 5 of the Market Rules (see section 9A of the Interpretation Act and the case law on the subject). Applying the purposive approach, non-compliance with a dispatch instruction may only be excused under exceptional circumstances. The burden of proving this lies on Senoko WTE. In the MSCP's opinion, Senoko WTE failed to prove that the non-compliance in this case occurred under exceptional circumstances. Consequently, Senoko WTE should not be excused or released from its obligation to comply with the dispatch instruction.

16. Based on the above assessment, the MSCP determines that none of the conditions in section 9.6.3 of Chapter 5 of the market rules applies to Senoko WTE's non-compliance with the dispatch instruction from PSO.
17. The MSCP hereby dismisses the appeal submitted by Senoko WTE and directs Senoko WTE to pay costs fixed at \$5,225.



T P B Menon
Chair, Market Surveillance and Compliance Panel