

**DETERMINATION OF THE MARKET SURVEILLANCE AND COMPLIANCE PANEL
MSCP/2007/D12**

Market Surveillance and Compliance Panel (“MSCP”)

Mr Joseph Grimberg, Chair
Professor Lim Chin
Mr Lee Keh Sai
Mr TPB Menon

Date of Determination

31 August 2007

Party

Energy Market Company Pte Ltd (“EMC”)

Subject

Failure to send fund transfer instructions within the timeline for trading day 27 December 2006

Applicable Market Manual

1. Section 9.2 of Settlement Market Manual

“The EMC shall issue an invoice and electronic funds transfer instructions to the clearing bank on the tenth business day after each trading day in accordance with sections 5.2.3 and 5.2.4, Chapter 7 of the market rules...”

2. Section 9.3 of Settlement Market Manual

“Based on the final settlement statement , EMC will instruct the *clearing bank to debit or credit, as appropriate, the market participant for the net settlement amount due on either market participant payment date or EMC payment date.”

The section also provides for the above to be carried out “by D + 11 business days”.

Facts and Circumstances

3. Section 9.2 of the Settlement Market Manual provides that EMC has to issue invoices and fund transfer instructions to its clearing bank on the 10th business day after each trading day. Therefore, for the trading day of 27 December 2006, EMC would have to issue trading invoices and fund transfer instructions to its clearing bank on 12 January 2007.

4. Section 9.3 of the Settlement Market Manual however provides that EMC would have to instruct the clearing bank by D+11 business days, i.e, 15 January 2007.
5. According to EMC, it failed to send funds transfer instructions for trading day 27 December 2006 within the timeline set out in Section 9.3 of the Settlement Market Manual. The funds transfer instructions were sent out on 16 January 2007.
6. EMC said that it has a two tier authorisation procedure for approving funds transfer instructions to its clearing bank. These funds transfer instructions will be confirmed as sent to the clearing bank for execution when its level 1 and level 2 authorisations have taken place. EMC's internal procedure requires all appointed EMC authorisers to clear funds transfer instructions by D+10 business days, 5:00pm. EMC's Settlement Team will check for the clearance of the funds transfer instructions to the clearing bank upon authorization by the 2nd authoriser by printing out the funds transfer status report.
7. On 12 January 2007 (D+10 business days), funds transfer instructions for trading day 27 December 2006 were given to the level 2 authoriser of EMC for final authorisation but he did not complete the authorisation on 12 January 2007. The EMC settlement staff also failed to check for the clearance of the funds transfer instructions on that occasion.
8. It was on the evening of 15 January 2007 (D+11 business days) that EMC found out that the funds transfer instructions were still pending authorisation by the level 2 authoriser. EMC authorised the fund transfer instructions on 16 January 2007. This was two days after the deadline specified in section 9.2 of the Settlement Market Manual and one day after the deadline specified in section 9.3 of the Settlement Market Manual.
9. The clearing bank was able to execute the funds transfer instructions on 16 January 2007. Payment was received by the bank and made promptly to all market participants within the deadlines specified in the market rules.
10. EMC said that it noted the inconsistency and ambiguity in the language of sections 9.2 and 9.3. However, in accordance with its current practice, EMC adopted the procedures as stated in section 9.3 as being the correct interpretation. EMC said it would study and amend the Settlement Market Manual to reflect the proper procedure.
11. EMC also said that it would improve the funds transfer instructions process by ensuring that its level 2 authoriser gives priority to and authorises funds transfer instructions before the end of banking business day at 5:00 pm. It had also advised its settlement staff concerned to be more diligent and exercise greater care when executing daily tasks.
12. The incident did not have a material impact on the wholesale electricity markets

Determinations

13. On 29 March 2007, the MSCP issued a letter informing EMC that it considered that EMC had prima facie breached sections 9.2 and 9.3 of the Settlement Market Manual and invited EMC to make written representations.
14. EMC submitted written representations on 12 April 2007.
15. In its written representations, EMC acknowledged the incident was due to human oversight and its process failure. It said that its market manual was intentionally conservative and the funds transfer instructions date was several days ahead of the payment date.

16. EMC said that during the incident, there were only two level 2 authorizers and this had put a great strain on an individual authoriser. To prevent future occurrence of such incidents, and to ensure that there are no lapses by individual personnel in performing the second tier checking, EMC had increased the number of level 2 authorisers from 2 to 5. In addition, EMC stated it would print hard copies of status reports each Monday to view the status of Friday's trade to ensure that the level 2 authorizers had reviewed and authorized the funds transfer instructions.
17. EMC said that it trusted that the MSCP would take into consideration that this incident had no impact on the market and EMC remained committed to continually upgrading and reviewing its process to ensure that errors and omissions are avoided.
18. The MSCP determined on the basis of the facts referred to above that EMC breached sections 9.2 and 9.3 of Settlement Market Manual.
19. However, the breach was self-reported, rectified quickly and without material impact on the wholesale electricity markets.
20. Therefore, the MSCP determined that the appropriate action to be taken was to issue a letter of non-compliance to EMC and to direct EMC to pay costs, fixed at \$1,500.00.

A handwritten signature in black ink, appearing to read 'Lim Chin', with a horizontal line extending to the right from the end of the signature.

Lim Chin
for Chair, Market Surveillance and Compliance Panel