



**Report by
Dispute Resolution Counsellor**

January 2008 to December 2008

31 March 2009

**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 January 2008 to 31 December 2008.

DISPUTE RESOLUTION INSTITUTIONS

The dispute resolution institutions for the wholesale electricity markets of the NEMS comprise the DRC and the Dispute Resolution and Compensation Panel (“DRCP”). The DRCP is made up of a Mediation Panel and an Arbitration Panel.

The Mediation Panel comprises:

- (a) Mr Chandra Mohan;
- (b) Mr Daniel John;
- (c) Ms Shirli Kirschner; and
- (d) Mr Robert Yu.

The Arbitration Panel comprises:

- (a) Professor Lawrence Boo;
- (b) The Honourable Gerald Edward (Tony) Fitzgerald AC, QC;
- (c) Mr Naresh Mahtani;
- (e) Professor Tan Cheng Han SC;
- (f) Mr Tan Ching Tiong;
- (g) Mr George Tan;
- (h) Mr Giam Chin Toon, SC;
- (i) Dr Robert Gaitskell, QC; and
- (j) Mr Philip Harris.

In the course of the year, I have appointed three new members to the DRCP – Arbitration Panel.

One of the newly appointed members is Mr Giam Chin Toon SC, who is a Senior Partner in Wee Swee Teow & Co with a legal career spanning about 40 years. Mr Giam is actively involved in arbitration, mediation and alternative dispute resolution. He has served as arbitrator in many domestic and international disputes. He is also on the panel of accredited arbitrators of the Singapore International Arbitration Centre, a Member of the Hawaii Panel of the Center for International Commercial Dispute Resolution and a Member of the Korean Commercial Arbitration Board. He is a Director on the Board of the Singapore Mediation Centre and was also Chairman of the Sub-Committee on the Review of Arbitration Laws in Singapore.

Another important addition to the panel is Dr Robert Gaitskell Q.C., who practises from Keating Chambers specialising in engineering and construction disputes, often of an international nature. He was called to the Bar in 1978 and appointed Queen’s Counsel in 1994. Dr Gaitskell predominantly acts as an arbitrator, adjudicator, dispute board member and mediator. He is both a lawyer and a professional engineer. Dr Gaitskell is also a fellow of the Singapore Institute of Arbitrators. Dr Gaitskell is currently acting as chairman of various International Chamber of Commerce (ICC) arbitral tribunals, dealing with matters relating to power stations, the automotive industry, petro-chemical works, and other complex engineering projects.

I have also appointed Mr Philip Harris, who is an energy industry veteran having been the President and Chief Executive Officer of PJM Interconnection and Chairman of the PJM Board for 15 years. Mr Harris was also one of the speakers at the Electricity Roundtable in 2007.

MARKET ASSESSMENT UNIT

The Market Assessment Unit of Energy Market Company Pte Ltd supports the dispute resolution process for the wholesale electricity markets of the NEMS and assists the DRC and DRCP in discharging their functions.

DISPUTE RESOLUTION PROCESS

Dispute Resolution Stages

The NEMS has a comprehensive approach to dispute resolution which enables disputes to be resolved outside of the courts. It involves the following stages:

- **Negotiation** - The parties attempt to resolve the dispute in good faith using their dispute management systems. This stage is initiated by a party to a dispute serving a notice of dispute on the other parties and giving a copy to the DRC.
- **Mediation** – If the dispute is not resolved by the parties themselves, it may be submitted for mediation. The mediation is conducted by a mediator selected from the Mediation Panel. This stage is initiated by a party serving a notice of mediation on the DRC.
- **Arbitration** - If the dispute is not resolved by the parties through mediation, it may be submitted for arbitration. The arbitration is conducted by an arbitrator(s) selected from the Arbitration Panel. This stage is initiated by a party filing a notice of arbitration with the DRC.

Review of the Dispute Resolution Procedures

A review of the Dispute Resolution Procedures was initiated by the EMC Board on 6 August 2008 as required under the market rules.

In response to this review, I submitted a proposal to broaden the selection criteria for candidates to the DRCP. This was because the existing criteria for candidates with legal background were unduly restrictive, and limited the potential pool of candidates.

This proposal was adopted by the EMC Board and approved by the Energy Market Authority.

DMS and DMS Contacts

The dispute resolution rules require each market player to implement a dispute management system (“DMS”). The DMS has to nominate a DMS contact to be the first point of contact for the notification of disputes. The DMS has also to be consistent with the guidance notes of the DRC.

The current DMS contacts are:

- (a) Air Products Asia - Tay Wee Ann
- (b) Diamond Energy Pte Ltd - Ayu Wirdati
- (c) Energy Market Company Pte Ltd - Abdul Aziz Yatim and Coco Choo
- (d) Keppel Electric Pte Ltd - Sumihiro Kawamura and Chung Xin Lei
- (e) Keppel Merlimau Cogen – Annie Tan and Tini Mulyawati
- (d) National Environment Agency - Winston Chew and Teo Hock Kheng
- (e) PowerSeraya Ltd - Albert Siah and Lin Nan
- (f) Power System Operator - Kang Cheng Guan and Kwok Foo Seng
- (g) Sembcorp Cogen Pte Ltd - Chua Gwen Heng and Aeron Hong
- (h) Sembcorp Utilities Pte Ltd - Geraldine Tan and Yip Pak Ling
- (i) Senoko Energy Supply Pte Ltd - Eu Pui Sun and Lynn Tan
- (j) Senoko Power Ltd - Eveline How and Sim Mei Ling
- (k) Seraya Energy Pte Ltd - Elaine Syn and Daniel Lee
- (l) SP PowerAssets Ltd - Chan Hung Kwan and Daniel Cheng
- (m) SP Services Ltd - Claris Lim and Lawrence Lee
- (n) Tuas Power Ltd - Philip Tan and Priscilla Chua
- (o) Tuas Power Supply Pte Ltd – Jazz Feng

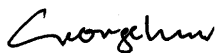
Contact particulars of the DMS contacts are published on the EMC website. This information will enable market participants to know who to contact in the event of a dispute.

DISPUTES

During the period 1 January 2008 to 31 December 2008, no notice of dispute, notice of mediation or notice of arbitration was served on the DRC.

CONCLUSION

In conclusion, I would like to thank all market participants, DMS contacts and the Market Assessment Unit for supporting the work of the DRC. I have been re-appointed the DRC for a further three-year term (2009 to 2011) and look forward to working towards further improving the dispute resolution process of NEMS.



George Lim
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31 March 2009