



National  
Electricity  
Market of  
Singapore

# **Report by Dispute Resolution Counsellor**

**April 2005 to March 2006**

***18 July 2006***

**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 2005 to 31 March 2006.

## **DISPUTE RESOLUTION INSTITUTIONS**

The dispute resolution institutions for the wholesale electricity markets of 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 Daniel John;
- (b) Ms Shirli Kirschner;
- (c) Mr Chandra Mohan; and
- (d) Mr Robert Yu.

The Arbitration Panel comprises:

- (a) Associate Professor Lawrence Boo;
- (b) The Honourable Gerald Edward (Tony) Fitzgerald AC, QC;
- (c) Mr Naresh Mahtani;
- (d) The Honourable Sir Anthony Mason AC, KBE;
- (e) Associate Professor Tan Cheng Han SC;
- (f) Mr Tan Ching Tiong;
- (g) Mr George Tan; and
- (h) Mr L P Thean.

## **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 DRCP in discharging their functions.

## **DISPUTE RESOLUTION PROCESS**

### **New Dispute Resolution Process**

The NEMS now has a new dispute resolution process based on a rule change proposal I submitted in October 2004. The purpose of the proposal was to provide the industry with a fair, efficient and cost-effective dispute resolution process. The new rules were approved in November 2005 and took effect on 14 February 2006.

The new dispute resolution process involves the following stages:

- **Negotiation** - The parties attempt to resolve the dispute in good faith using their dispute management systems.
- **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.
- **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.

With the new dispute resolution process, the NEMS has a comprehensive approach to dispute resolution which enables disputes to be resolved outside of the courts.

### **Dispute Management Workshop**

On 23 and 24 August 2005, I worked with the MAU to organize a Dispute Management Workshop for the industry. The purpose was to equip market players with the necessary knowledge and skills for the new dispute resolution rules to be successfully implemented.

Together with Ms Shirli Kirschner, Dispute Resolution Advisor for the National Electricity Market of Australia, we considered various ways of resolving disputes and explored the new dispute resolution process with participants through role play, videos and exercises. Participants also shared their views as to what would be appropriate components in a dispute management system (DMS) for NEMS.

Based on the very positive feedback from workshop participants, I plan to organize further skills training sessions to meet the requests of the industry and support the needs of market players in using the new dispute resolution process.

### **DMS Contact Network**

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

In the past year, all market players have nominated representatives who will be their main or alternate DMS contacts. This network of DMS contacts first met at the end of 2005. Looking ahead, it is important that we not only equip DMS contacts with the necessary skills for responding to a dispute, but also provide them with opportunities to interact. Should any market dispute arise, there will be a better chance of resolution between colleagues who have already built a relationship in a non-contentious setting.

The DMS contacts appointed by market players are:-

- (a) Diamond Energy Pte Ltd - Dallon Kay
- (b) Energy Market Company Pte Ltd - Glenn Wong and Tan Zing Yuen
- (c) Keppel Electric Pte Ltd - Ida Handojo and Ho Wei Ling
- (d) National Environment Agency - Manimegalai Vellasamy and Teo Hock Kheng

- (e) PowerSeraya Ltd - Elaine Syn and Angelina Tay
- (f) Power System Operator - Kang Cheng Guan and Yeo Lai Hin
- (g) Sembcorp Cogen Pte Ltd - Foo May Ling and Aeron Hong
- (h) Sembcorp Utilities Pte Ltd - Foo May Ling and Aeron Hong
- (i) Senoko Energy Supply Pte Ltd - Eu Pui Sun and Ho Chooi Yin
- (j) Senoko Power Ltd - Eveline How
- (k) Seraya Energy Pte Ltd - Elaine Syn and Angelina Tay
- (l) SP PowerGrid Ltd - Chan Hung Kwan and Heng Boon Leng
- (m) SP Services Ltd - Han Mui Hui and Lim Ah Kuan
- (n) Tuas Power Ltd - Jazz Feng and Sim Poh Thien
- (o) Tuas Power Supply Pte Ltd - Jazz Feng and Sim Poh Thien

Keppel Merlimau Cogen, a potential market player, has also appointed Koh Kah Aik and Tini Mulyawati as their DMS contacts.

DMS contacts are instrumental in helping to implement the new rules. Working with DMS contacts and taking into account their views, I have issued a DMS guidance note. This is accompanied by a model DMS for the NEMS. The DMS guidance note and model DMS provide all market players with a common reference to ensure a measure of consistency in the DMS they develop. This will help avoid unnecessary conflicts between the different DMS when they are used in practice.

### **Dispute Resolution and Compensation Panel**

Pursuant to the new dispute resolution rules, I have also established a DRCP comprising a Mediation Panel and an Arbitration Panel for NEMS.

The Mediation Panel comprises Singapore individuals who are experienced and competent mediators. Participants at the Dispute Management Workshop held in August 2005 would be familiar with Ms Shirli Kirschner, Dispute Resolution Advisor for the National Electricity Market of Australia. In view of her familiarity with electricity markets, and depth of experience as a mediator, I have also invited her to serve on our Mediation Panel.

In setting up the Arbitration Panel, I took into account that market players had expressed that they wanted adequate choice of independent and experienced arbitrators. I am pleased to report that all five of the established arbitrators whom I had appointed under the previous dispute resolution rules have agreed to continue to make their services available to NEMS.

We are also privileged to have secured the services of Mr LP Thean, an eminent member of the Singapore legal community, who for many years served as a Judge of the High Court and subsequently Judge of Appeal of the Court of Appeal. Two highly qualified Australian arbitrators have also agreed to serve on our Arbitration Panel. The Honourable Sir Anthony Mason AC, KBE was formerly Chief Justice of the High Court of Australia. The Honourable Gerald Edward (Tony) Fitzgerald AC, QC has held several significant judicial appointments on the Australian Bench. It is our honour to have them as members of our Arbitration Panel.

With these appointments, the industry can be assured that should a dispute arise, they will have access to quality dispute resolution services provided by capable and independent individuals.

## DISPUTES

### Requests for Assistance and Dispute Referrals

For the period under review, the previous dispute resolution process continued to apply until 13 February 2006. The new dispute resolution process applied with effect from 14 February 2006.

The previous dispute resolution process comprised:

- 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.

Parties who wished to raise a dispute under the First Stage Dispute Resolution Process did so by serving a notice of dispute on the other parties. They did not have to serve a notice of dispute on the DRC. However, they could invite the DRC to assist in facilitating the resolution of the dispute.

A party who desired to have a dispute resolved under the Second Stage Dispute Resolution Process had to refer the dispute to the DRC.

Under the new dispute resolution process, parties raise a dispute by serving a notice of dispute on the other parties and giving a copy to the DRC.

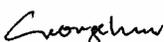
I wish to report that during the period 1 April 2005 to 31 March 2006, I did not receive:

- any request for assistance or any notice of a dispute under the previous dispute resolution process; or
- any notice of dispute under the new dispute resolution process.

## CONCLUSION

Significant progress has taken place over the past year in implementing the new dispute resolution process. I am pleased that the NEMS now has in place a comprehensive dispute resolution process with quality dispute resolution institutions. Underlying that process, we also have a DMS contact network and DMS contacts whom we are equipping with skills to effectively deal with any disputes which may arise.

Finally, I wish to thank the MAU for the assistance given to me in the year under review.



George Lim  
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18 July 2006