

In the matter of an Application for Orders for breach of clause 5.2.5(a)(2) of the National Electricity Code by Pelican Point Power Limited

BETWEEN

NATIONAL ELECTRICITY CODE ADMINISTRATOR LIMITED
(ACN 073 942 775)

APPLICANT

and

PELICAN POINT POWER LIMITED
(ARBN 086 411 814)

RESPONDENT

TRIBUNAL: PROF DOUGLAS WILLIAMSON RFD QC (CHAIRPERSON) and
ASSOC PROF HUGH OUTHRED (MEMBER)

SITTING IN: MELBOURNE

DATE: 9 SEPTEMBER 2005

DIRECTIONS AND ORDERS

The Tribunal:

1. Directs pursuant to sections 25(1) and 26(1) of the National Electricity (SA) Law as in force on 14 March 2005 ('the Law') that Douglas Williamson (Chairperson) and Hugh Outhred (Member) constitute the Tribunal for the purposes of the proceeding herein.
2. Directs pursuant to sections 32(1)(a), 32(2) and 34(2) of the Law that the proceeding herein be determined on the papers, without a hearing in public, for the following reasons:
 - (a) the Applicant has filed an Application dated 12 August 2005 containing statements of alleged background facts and particulars

- of an alleged breach of the National Electricity Code (‘the Application’);
- (b) the Applicant and the Respondent (‘the Parties’) have filed an Amended Agreed Statement of Facts and Positions dated 7 September 2005 (‘the Amended Agreed Statement’) which includes an attached letter from National Electricity Market Management Company Limited (‘NEMMCO’) undated but received by NECA on 1 September 2005, headed ‘Re Incident 14 March – Pelican Point Power Station’ (‘the NEMMCO letter’);
 - (c) the Respondent admits that it breached the Code by reason of two generating units in the combined gas and steam facilities at the Pelican Point Power Station failing to comply with the prescribed performance standard at approximately 6.39am on 14 March 2005;
 - (d) there are no other parties to the proceeding;
 - (e) the Parties have requested that the matter be dealt with by written submissions comprising the Application and the Amended Agreed Statement, and that the matter be determined by the Tribunal as soon as practicable;
 - (f) section 32(1) of the Law provides (amongst other things) that the proceeding be conducted with as little formality and technicality, and with as much expedition as is proper, and that the Tribunal may inform itself in any way that is considered appropriate;
 - (g) the Parties agree that the Respondent took immediate steps following the breach to improve the response to changes in frequency, and made modifications on 25 April 2005;
 - (h) the Parties agree that the Respondent has fully co-operated with the Applicant in its investigation of the matter and has not contested the Application;
 - (i) the Parties have agreed upon the penalty for the breach, and the Declaration and Orders sought;
 - (j) on the whole of the material in the Application, the Amended Agreed Statement and the NEMMCO letter, the penalty and Declaration and Orders sought by the Parties appear to the Tribunal to be within the proper range of penalties, and appropriate in the circumstances; and
 - (k) a Direction is given herein for specified documents to be available for public inspection.

3. Declares that the Respondent breached clause 5.2.5(a)(2) of the Code by reason of two generating units in the combined gas and steam facilities at Pelican Point Power Station failing to meet the requirements of clause 3.3(1) of the Respondent’s performance standards at approximately 6.39am on 14 March 2005.

4. Orders that the Respondent pay to the Applicant a penalty of \$100,000 in respect of the breach by the Respondent of clause 5.2.5(a)(2) of the Code, 80% of which shall be suspended for a period of 12 months such that the Respondent will not be required to pay the suspended portion of the penalty unless the Respondent breaches clause 5.2.5(a)(2) of the National Electricity Rules by reason of the generating units at Pelican Point Power Station failing to meet the requirements of clause 3.3(1) of the Respondent's performance standards within the period of 12 months immediately following the date of this Order.
5. Directs pursuant to sections 32(1) and 40 of the Law that copies of the Application, the Tribunal letter dated 24 August 2005 requesting further information from the Parties, the Amended Agreed Statement and the NEMMCO letter, be annexed to the Directions and Orders entered herein, and that the Directions and Orders with annexures be available for public inspection at the Tribunal Registry, Adelaide and on the Tribunal website.

Annexures

1. Copy Application 12 August 2005
2. Copy Tribunal letter 24 August 2005 to Parties
3. Copy Amended Agreed Statement 7 September 2005
4. Copy NEMMCO letter received by NECA 1 September 2005

Authenticated:



DATE: 12/9/05.