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AEMC

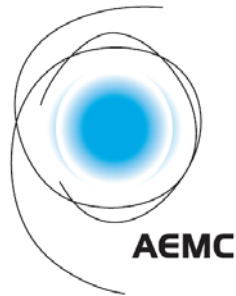## Draft National Electricity Amendment (Registration Of Foreign Based Persons and Corporations as Trader Class Participants) Rule 2007

under the National Electricity Law as applied by:

(a)   the National Electricity (South Australia) Act 1996;

(b)   the Electricity (National Scheme) Act 1997 of the Australian Capital Territory;

(c)   the National Electricity (New South Wales) Act 1997 of New South Wales;

(d)   the Electricity - National Scheme (Queensland) Act 1997 of Queensland;

(e)   the Electricity - National Scheme (Tasmania) Act 1999 of Tasmania;

(f)   the National Electricity (Victoria) Act 2005 of Victoria; and

(g)   the Australian Energy Market Act 2004 of the Commonwealth.

The Australian Energy Market Commission makes the following Rule under the National Electricity Law.

John Tamblyn
Chairman
Australian Energy Market Commission

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Draft National Electricity Amendment (Registration of Foreign Based Persons and Corporations as Trader Class Participants) Rule 2007

1.   Title of Rule

This Rule is the *Draft National Electricity Amendment (Registration of Foreign Based Persons and Corporations as Trader Class Participants) Rule 2007.*

2.   Commencement

This Rule commences operation on [insert date].

3.   Amendment of the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 1.

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Schedule 1   Amendment of National Electricity Rules

(Clause 3)

[1]   Rule 2.5A   Trader

Omit rule 2.5A(b)(2) and substitute:

> (2)   to be treated as a *Market Participant* for the purposes of clause 3.3.1 and rule 3.15 (as applied and modified by clause 3.18.4) provided that a person who is registered by *NEMMCO* as a *Trader* is not to be regarded as a *Market Participant* for the purposes of clauses 3.3.1(a) and 3.15.1(b); and

[2]   Rule 2.5A   Trader

After rule 2.5A(b), insert:

> (c)   A person registered by *NEMMCO* as a *Trader* must:
>
> > (1)   have an office in Australia to which all communications and notices may be addressed and at which a representative of the *Trader* is present at all times during business hours; and
> >
> > (2)   where the *Trader* is not resident in, or does not have a permanent establishment, in Australia, appoint a person ('an **agent**') who is:
> >
> > > (i)   a natural person or company;
> > >
> > > (ii)   resident in Australia; and
> > >
> > > (iii)   authorised to accept service of process and notices on behalf of that *Trader*,
> >
> > and provide *NEMMCO* with a certified copy of the instrument, executed by the agent, under which the agent is so appointed and which specifies the agent's address.
>
> (d)   An agent required to be appointed under paragraph (c)(2) must be appointed by the *Trader* prior to the first occasion the *Trader* participates in an *auction* and an agent must be appointed at all times after that occasion for the purposes of paragraph (c)(2).

[3]   Clause 3.18.1 Settlement residue concepts

After clause 3.18.1(d), insert:

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     (e)   Where a person registered as a *Trader* is required to appoint an agent for the purposes of rule 2.5A(c)(2):

          (1)   the *Trader* must ensure that the agent is a party to the *auction participation agreement* and the *SRD agreement* between *NEMMCO* and the *Trader*; and

          (2)   *NEMMCO* and the *Trader* must ensure that the *auction participation agreement* and the *SRD agreement* referred to in subparagraph (1) provide that the *Trader* and the agent are jointly and severally liable in relation to the obligations of the *Trader* under those agreements.

[4]   Chapter 11   Savings and Transitional Rules

11.X   Rules consequential on the making of the National Electricity Amendment (Registration of Foreign Based Persons and Corporations as Trader Class Participants) Rule 2007

11.X.1   Definitions

For the purposes of this rule 11.X:

Amending Rule means the National Electricity Amendment (Registration of Foreign Based Persons and Corporations as Trader Class Participants) Rule 2007.

commencement date means the day on which the Amending Rule commences operation.

11.X.2   Auction rules

Any action taken by *NEMMCO* prior to the commencement date to amend the *auction rules* for the purpose of the Amending Rule is taken to satisfy the equivalent action under the *Rules*.

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