

07 November 2008

Dr John Tamblyn
Chairman
Australian Energy Markets Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

By email (submissions@aemc.gov.au)

Dear Dr Tamblyn

**CONFIDENTIALITY ARRANGEMENTS IN RESPECT OF INFORMATION
REQUIRED FOR POWER SYSTEM STUDIES – DRAFT DETERMINATION**

Roaring 40s welcomes the opportunity to comment on the Draft determination and provides the following information for consideration.

Roaring 40s has three operating wind farms in the National Electricity Market and is in the advanced stage of connecting two further facilities, the Musselroe Wind Farm in north-east Tasmania, and the Waterloo Wind Farm in South Australia. Roaring 40s has assessed the draft rule as being effective in allowing access to the power system information required to meet the planning and operational needs of these and less advanced projects in the Roaring 40s portfolio.

In a submission to the Rule consultation process, Roaring 40s has detailed its key concerns around the protection of intellectual property associated with wind turbine technology. It is noted that the changes to the definition of “releasable user guide” and the requirement for NEMMCO to maintain a register of parties that receive releasable information are important steps to addressing this issue.

Despite these steps, the absence of clear contractual means by which owners of intellectual property can effect the protection of their intellectual property remains a matter of concern. Roaring 40s proposes to carefully monitor the effect of these arrangements on wind turbine manufacturers seeking to enter the Australian market with a view to identifying any need to further enhancing the protection of high value intellectual property.

Roaring 40s also welcomes the proposal for transitional measures as a practical framework for managing legacy data. Roaring 40s is however concerned that the provisions of Clause 11.22(b) allow NEMMCO to release information “of the type required in a releasable user guide” could create the situation where sensitive information that was previously confidential could be released at the discretion of NEMMCO.

With this provision, NEMMCO appears to be requesting that a Rule be made so as to give it discretion to strip away confidentiality protection from information previously provided to NEMMCO. Such endeavours by NEMMCO could be interpreted as a desire to strip away protection for confidential information previously supplied by investors, so putting their intellectual property at risk. This creates damaging perceptions of regulatory risk. Roaring 40s suggests that it is very important for the AMEC to clearly acknowledge the necessity of grandfathering the protection of information provided to NEMMCO on a confidential basis.

It is suggested that NEMMCO's desire to release information it already holds can be effectively managed by:

1. Further clarifying which information could be deemed to form a Releasable User Guide;
2. Allow providers of confidential information to veto release of this information in a deemed Releasable User Guide and;
3. Requiring providers of confidential information to supply a Releasable User Guide in a reasonable period of time in circumstances where previously supplied confidential information cannot be released for this purpose.

The following addition to Clause 11.22(b) is proposed as a practical means of achieving this:

For the avoidance of doubt, functional block diagrams held by NEMMCO cannot be deemed to form part of a releasable user guide without the consent of the person who provided the information. Should NEMMCO wish to deem confidential information as forming a "Releasable User Guide", NEMMCO must seek permission of the person who provided the information to release the information. Should permission not be granted to deem the information as a releasable user guide, the participant must provide a "Releasable User Guide" to NEMMCO within a reasonable period of time (say 90 days).

Please contact Andrew Jones (Market and Regulation Manager) on 0400 537 944 below if you have any questions relating to this submission.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Andrew Jones', with a stylized, flowing script.

Andrew Jones
Market and Regulation Manager