



AUSTRALIAN
ENERGY
REGULATOR

Investigation Report

**AGL's compliance with the good faith rebidding provision of the
National Electricity Rules on 19 February 2008**

May 2009



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Glossary

AER	Australian Energy Regulator
AGL	AGL Energy Limited
CPT	Cumulative Price Threshold, being \$150,000/MWh as set out in clause 3.14.1 of the NER
Dispatch interval	A five minute interval in which the dispatch algorithm is run in accordance with clause 3.8.21(b) of the NER
Initial Offer	A notice submitted by a scheduled generator or a semi-scheduled generator to NEMMCO relating to the dispatch of a scheduled generating unit in accordance with clause 3.8.6 of the NER
Market participant	A market generator, market customer or market network service provider
NECA	National Electricity Code Administrator
NEL	National Electricity Law (a Schedule to the under the <i>National Electricity (South Australia) Act 1996 (South Australia)</i>)
NEM	The National Electricity Market being the electricity wholesale exchange operated and administered by NEMMCO, and the national electricity system, which comprises the following regions: New South Wales, Queensland, South Australia, Victoria and Tasmania
NEMMCO	National Electricity Market Management Company
NER	National Electricity Rules
Rebid	A variation to a bid or offer made in accordance with clause 3.8.22 of the NER
Regulations	The National Electricity (South Australia) Regulations made under the National Electricity (South Australia) Act 1996 (South Australia)
Section 28 Notice	A Notice issue pursuant to section 28 of the NEL requiring the addressee to provide information and/or produce documents to assist the AER in fulfilling its functions
Spot price	The price for the trading interval, being the average of the prices for the six dispatch intervals comprising the trading interval
TIPS	Torrens Island Power Station
Trading day	Comprises 48 trading intervals and commences at 04:00 eastern standard time
Trading interval	A 30 minute trading interval, comprising six dispatch intervals

Summary

This report completes the Australian Energy Regulator's (AER) investigation into the compliance of AGL Energy Limited (AGL) with the good faith rebidding provision, clause 3.8.22A of the National Electricity Rules (NER), on 19 February 2008. The AER considers that the information gathered during the course of its investigation does not support a breach of clause 3.8.22A of the NER by AGL in respect of its rebidding conduct on 19 February 2008.

The good faith rebidding provision within the NER requires that all dispatch offers, bids and rebids are made in good faith. Clause 3.8.22A of the NER was introduced into the National Electricity Code in 2002. The introduction of the requirement that offers and rebids be made in good faith sought to improve the reliability of pre-dispatch forecast prices and address concerns about the ability of generators to affect spot prices and limit opportunities for a competitive generator response or a demand-side response¹.

The investigation focused on AGL's rebidding of its Torrens Island Power Station (TIPS) for the trading day of 19 February 2008. TIPS, a 1280 MW gas-fired power station located 15 kilometres north-west of Adelaide, is the largest power station in the South Australia region of the National Electricity Market (NEM). TIPS is comprised of four 120 MW units (A1, A2, A3 and A4) and four 200 MW generation units (B1, B2, B3 and B4), each of which is registered separately with the National Electricity Market Management Company (NEMMCO)².

On two occasions during 19 February 2008, AGL rebid up to 75 per cent of the capacity at TIPS from prices less than \$150/MWh to \$9000/MWh immediately prior to dispatch. These rebids saw the 30-minute spot price in South Australia increase to \$1573/MWh at 2 pm and \$6087/MWh at 6 pm. These rebids were the key focus of the investigation.

¹ Australian Competition & Consumer Commission (ACCC), *Determination – Applications for authorisation, amendments to the National Electricity Code and changes to bidding and rebidding rules*, 4 December 2002, pp 7, 11 and 17-20. Clause 3.8.22A of the NER was introduced into the National Electricity Code as the result of a code change authorisation application submitted by the National Electricity Code Administrator (NECA) on 13 September 2001 to the Australian Competition and Consumer Commission (ACCC) for approval. At that time, the ACCC was empowered under Part VII of the *Trade Practices Act 1974* (Cth) to assess and approve changes to the code. The ACCC approved the application with amendments and as part of this process published a draft determination on 3 July 2002 and a final determination on 4 December 2002.

² AGL SA Generation Pty Ltd, a subsidiary of AGL Energy Limited, is the Registered Participant in relation to TIPS for the purposes of clause 2.2.1 of the National Electricity Rules.

1 Introduction

This report sets out the results of the AER's investigation into AGL's compliance with the good faith rebidding provision, clause 3.8.22A of the NER, on 19 February 2008. This provision requires generators to offer and rebid in good faith. An offer or rebid is taken to be made in good faith if, at the time the offer or rebid was made, the generator has a genuine intention to honour that offer or rebid if the material conditions and circumstances upon which the offer or rebid were based remain unchanged until the relevant dispatch interval.

In this report:

- Part 2 provides the background to the investigation;
- Part 3 details AGL's rebidding conduct for the trading day of 19 February 2008 and its effect; and
- Part 4 explains the AER's assessment of AGL's compliance with clause 3.8.22A of the NER.

2 Background to the investigation

2.1 The events leading to the AER's investigation

During the first quarter of 2008 (**Q1 2008**), the spot price in South Australia exceeded \$5000/MWh on 51 occasions. On 4 March 2008, the AER published a "\$5000 report",³ covering the market events during January and February 2008 in South Australia. A second \$5000 report was published on 29 May 2008, covering the latter part of March, including the period when the Cumulative Price Threshold was breached and administered pricing applied. Both AER reports found that a combination of high demand, generator bidding and transmission constraints were responsible for the high prices⁴.

On the 51 occasions during Q1 2008 when the spot price in South Australia exceeded \$5000/MWh, AGL was the only participant to offer significant amounts of capacity above \$5000/MWh. AGL often offered around 80 per cent of the capacity at TIPS at prices above \$5000/MWh during these times.

During 48 of the \$5000/MWh events, the capacity at TIPS priced above \$5000/MWh was reflected in its initial offer in respect of the relevant trading days⁵. These

³ Under clause 3.13.7(d) of the NER, the AER is required to publish a report when the spot price exceeds \$5000/MWh.

⁴ The relevant \$5000/MWh reports published by the AER are available at <http://www.aer.gov.au/content/index.phtml/itemId/714860>.

⁵ A generator's initial offer in respect of a particular trading day, which commences at 4 am, must be submitted to the National Electricity Market Management Company (NEMMCO) by 12.30 pm EST the day prior as stated within NEMMCO's "Spot Market Operations Table" (<http://www.nemmco.com.au/powersystemops/108-0030.html>) in accordance with clause 3.8.5 of the National Electricity Rules.

day-ahead offers were not investigated further. For the remaining three \$5000/MWh events, AGL rebid significant capacity at TIPS from prices below \$150/MWh to prices of \$9000/MWh or more. All offers and rebids are subject to the requirement under clause 3.8.22A to offer and rebid in good faith⁶.

Two of the three events during Q1 2008 in which rebidding contributed to the spot price in South Australia exceeding \$5000/MWh occurred on 12 March 2008. At 4.41 pm on 12 March 2008, AGL rebid 740 MW of capacity at TIPS to prices close to the \$10 000/MWh price cap for the two trading intervals ending 5.30 pm and 6.00 pm. The rebid reason given was “Interconnector Constraint: MN20823”. The AER verified that the constraint referred to in AGL’s rebid reason related to a reduction in imports into South Australia across the Heywood Interconnector by around 260 MW. The AER’s investigation did not focus further on the 4.41 pm rebid and these two events.

The remaining event during Q1 2008 in which rebidding contributed to the spot price in South Australia exceeding \$5000/MWh occurred on the day subject to the present investigation, 19 February 2008. Detail in relation to AGL’s rebidding on this day is provided below in section 3.1.

2.2 Heywood interconnector derating

In December 2008, the AER published an investigation report into the derating of the Heywood interconnector⁷. This interconnector is an electricity transmission line that connects the transmission networks of South Australia and Victoria. Heywood was commissioned in 1989 with a nominal import capability into South Australia of 500 MW. A significant proportion of South Australia's electricity requirements are sourced from generators in Victoria using this interconnector.

In late 2007, due to network development issues, ElectraNet, the transmission network service provider for South Australia, reduced the Heywood interconnector's maximum allowable flow to around 360 MW. The AER commenced an investigation to determine whether ElectraNet complied with relevant obligations under the NER, with particular focus on ElectraNet’s compliance with its network planning and reporting obligations.

While the AER did not establish any breach of the NER by ElectraNet, it did identify a number of information quality issues. In February 2009 after a request from the AER, ElectraNet made a commitment to improve its processes by:

- better integrating changes to the network capability identified through the planning process into its ongoing analysis and reporting regarding the expected future operation of its networks; and

⁶ With respect to the 48 events during Q1 2008 in which rebidding did not contribute to the spot price in South Australia exceeding \$5000/MWh, compliance with clause 3.8.22A of the NER was not an issue.

⁷ The report into the derating of the Heywood interconnector is available at <http://www.aer.gov.au/content/index.phtml/itemId/725146>.

- disseminating reliable, prompt and full information relating to major network factors (such as those contributing to the Heywood derating) as soon as its analysis and studies reveal issues likely to have significant impacts within the NEM.

The investigation also identified shortcomings in the registration process for maximum generator capacity. This issue is being addressed by NEMMCO through a Rule change proposal aimed at clarifying the process.

2.3 Temperature, demand and price on 19 February 2008

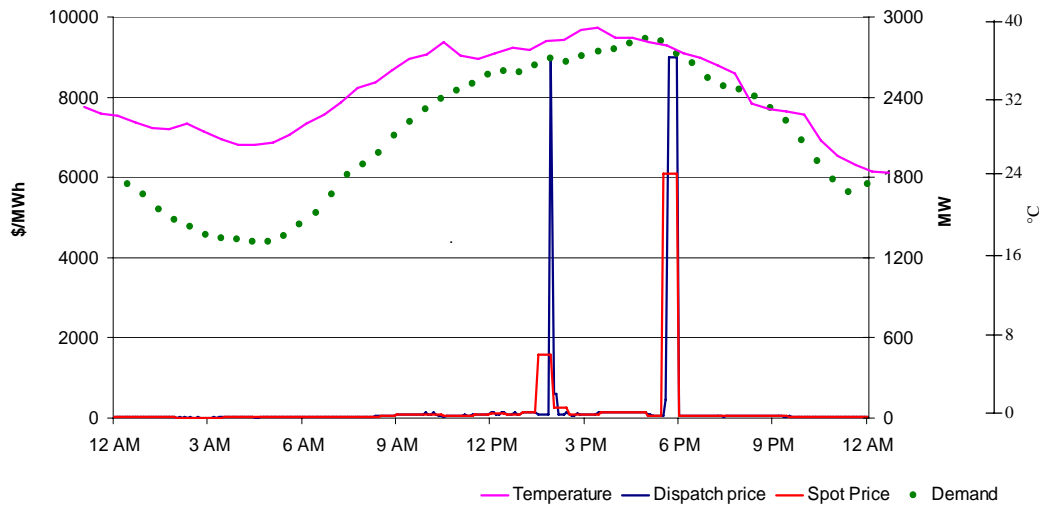
On 19 February 2008, temperatures in South Australia reached 38 degrees and a forecast cool change for the evening did not eventuate until the following day. Demand in South Australia was at near record levels and peaked at 2838 MW at 5 pm.

Spot prices during the morning of 19 February 2008 did not exceed \$150/MWh. Following a rebid by AGL at 1.45 pm on 19 February 2008, units at TIPS set the dispatch price for the dispatch interval ending 2 pm at \$9000/MWh. The spot price for the trading interval ending 2 pm was \$1573/MWh.

Dispatch prices during the trading interval ending 2.30 pm did not exceed \$600/MWh and subsequent dispatch prices did not exceed \$150/MWh until the trading interval ending 6 pm. Following a 5.30 pm rebid from AGL, units at TIPS set dispatch prices for the final four dispatch intervals of the trading interval ending 6 pm at \$9000/MWh. The spot price for the trading interval ending 6 pm was \$6087/MWh.

Figure 1 shows the temperature, demand and price in South Australia on 19 February 2008. Both 5-minute dispatch prices and 30-minute spot prices are provided. The graph shows the two significant price spikes in South Australia at 2 pm and 6 pm and that temperature and demand were aligned.

Figure 1: Temperature, demand and price for South Australia on 19 February 2008



2.4 Cumulative price for South Australia during Q1 2008

The Cumulative Price Threshold (CPT) caps the spot price once the cumulative price within a particular NEM region over a rolling seven day period exceeds the threshold of \$150 000. If the cumulative price for South Australia exceeded the threshold on 19 February 2008, administered pricing would have applied from the time the CPT was exceeded. The application of administered pricing on 19 February 2008 would have resulted in spot prices being capped at \$100/MWh during peak periods and \$50/MWh at other times.⁸

Figure 2: Seven day rolling cumulative price for South Australia and CPT

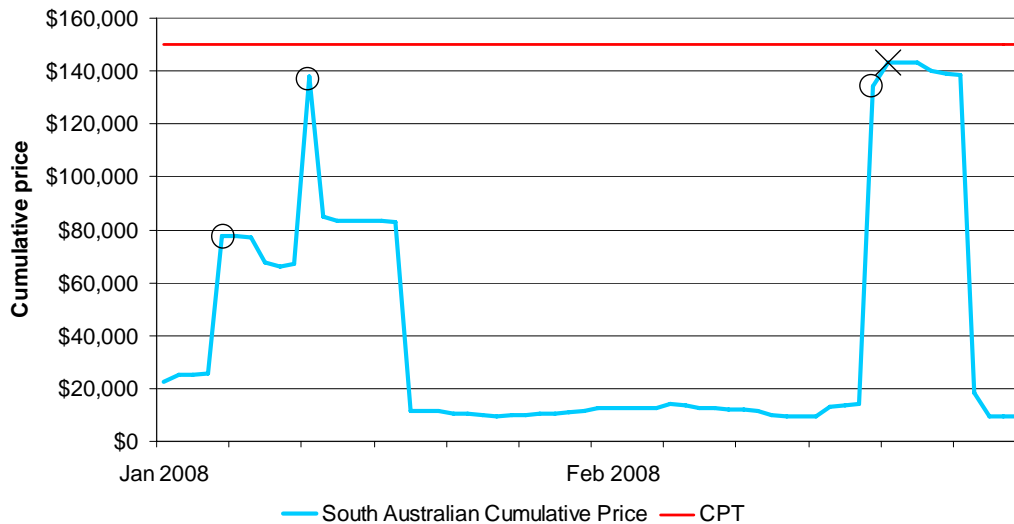


Figure 2 shows the impact of high spot prices on the cumulative price for South Australia during January and February 2008 together with the CPT. The days in which the spot price in South Australia exceeded \$5000/MWh during January and

⁸ Following a review of the administered price cap, the Australian Energy Market Commission determined that from 25 May 2008 the APC is \$300/MWh for all regions for all time periods.

February 2008 are shown with a circle in the graph⁹. The \$6087/MWh spot price for the trading interval ending 6 pm on 19 February 2008 is indicated with a cross. The graph shows that the cumulative price for South Australia approached the CPT on 10 January 2008 and was close to the CPT from 18–24 February 2008.

2.5 Timeframes for investigation

On 28 February 2008, pursuant to clause 3.8.22(c)(3) of the NER, the AER sought information from AGL in order to substantiate and verify the reasons for specific rebids submitted in respect of TIPS on days of high spot prices during January and February 2008¹⁰. AGL responded to the AER's rebidding inquiry in a letter dated 14 March 2008. After considering both the timing and the changes made by particular rebids on 19 February 2008 in light of the reasons for submitting those rebids as provided by AGL, the AER determined that compliance with the good faith provision of the NER was an issue. From April to September 2008, the AER analysed AGL's conduct and the complex issues involved.

On 29 September 2008, the AER formed a reason to believe that AGL was able to further provide information and produce documents which were necessary for the AER's investigation. Accordingly, the AER issued a notice under section 28 of the NEL (the 'section 28 Notice') to AGL. On 9 October 2008, the AER granted AGL's request for an extension to the due date for a response to the Notice until 17 November 2008. AGL substantively responded to the section 28 Notice by the extended due date but notified that it was having some difficulty in completing the document request portion of the Notice. The AER received all documents requested within the Notice by 4 December 2008.

During December 2008, the AER conducted a comprehensive assessment of the information provided. On 22 December 2008, the AER sent two letters to AGL, the first addressing AGL's compliance with the section 28 Notice and the second containing several follow-up questions to AGL's response to the Notice.

AGL provided the information requested on 27 January 2009, its response prompting a further AER follow-up letter dated 29 January 2009. With the information provided in AGL's response dated 4 February 2009, the AER was satisfied it had all the information necessary to assess AGL's compliance with the good faith provision. From February 2009, the AER finalised its detailed assessment of all the evidence relating to decisions to rebid and compliance with clause 3.8.22A of the NER.

⁹ As reported in the AER's 4 and 10 January, 18 and 19 February 2008 \$5000/MWh report published in March 2008.

¹⁰ The AER's rebidding inquiry, pursuant to clause 3.8.22(c)(3) of the NER, was also made for the purposes of assessing rebids for compliance with clause 3.8.22A of the NER, including rebids submitted on 19 February 2008.

3 Rebidding by AGL and its effect

3.1 Significant rebids relevant to the AER's investigation

At 9.01 am on 18 February 2008, AGL submitted to NEMMCO offers of the available capacity of units at TIPS for the trading day of 19 February 2008 ("the initial offer"). The initial offer included 720 MW of available capacity at TIPS, comprising a commitment of units A3, B2, B3 and B4, for the whole of the trading day of 19 February 2008. All capacity offered at TIPS for the entire trading day was priced below \$150/MWh.

AGL rebid to vary its initial offer in respect of TIPS for the trading day of 19 February 2008 several times.

Rebids submitted on 18 February 2008 for the trading day of 19 February 2008

- A rebid made at 1.30 pm on 18 February 2008 postponed the planned shutdown of unit B1 for the entire trading day of 19 February 2008. All 200 MW of the available capacity offered at unit B1 was priced below \$150/MWh. The rebid reason provided was "14:19P PLANT LIMITATIONS::ADJ TO UNIT DE-COMMIT(OUTAGE CANC)".
- A rebid made at 2.16 pm on 18 February 2008 committed unit A1 for the trading interval ending 12.30 pm through to the trading interval ending 7.30 pm on 19 February 2008. All 120 MW of the available capacity offered at unit A1 was priced below \$150/MWh. The rebid reason provided was "15:05F PORTFOLIO OPTIMISATION::CHANGE TO UNIT COMMITMENT".
- A rebid made at 4.14 pm on 18 February 2008 committed unit A4 for the trading interval ending 12.30 pm through to the trading interval ending 7.30 pm on 19 February 2008. All 120 MW of the available capacity offered at unit A4 during this period was priced below \$150/MWh. The rebid reason provided was "17:03F PORTFOLIO OPTIMISATION::CHANGE TO UNIT COMMITMENT".

The three rebids detailed above increased the available capacity at TIPS by 440 MW during the period when high demand was forecast for South Australia on 19 February 2008. The AER does not consider that these rebids raised compliance issues with clause 3.8.22A of the NER.

Rebids submitted on 19 February 2008 for the trading day of 19 February 2008

- A rebid made at 1.45 pm shifted 600MW of available capacity for the trading interval ending 2.00 pm and shifted 530 MW of available capacity for the trading interval ending 2.30 pm across TIPS units A1, A3 and all four B units from prices below \$150/MWh to around \$9000/MWh. This rebid was first effective for the dispatch interval ending 1.55 pm. The rebid reason provided was "14:35F PORTFOLIO OPTIMISATION::PRICE/VOLUME TRADE OFF".
- A rebid made at 2.06 pm shifted 60 MW of available capacity at unit A4 from prices less than \$0/MWh to around \$9000/MWh for the trading interval ending 2.30 pm. This rebid was first effective for the dispatch interval ending 2.15 pm and was submitted after testing of the unit was completed following the earlier burner outage. The rebid reason provided was "14:55P PLANT

TESTING/COMMISSIONING FINISHED (STRAT RES)”.

- A rebid made at 5.30 pm shifted 820MW of available capacity from prices below \$150/MWh to around \$9000/MWh for the trading interval ending 6.00 pm. This rebid was first effective for the dispatch interval ending 5.40 pm. The rebid reason provided was “18:20F PORTFOLIO OPTIMISATION:: PRICE/VOLUME TRADE OFF”.

Figure 3: Torrens Island closing bid prices, dispatch and spot price on 19 February 2008

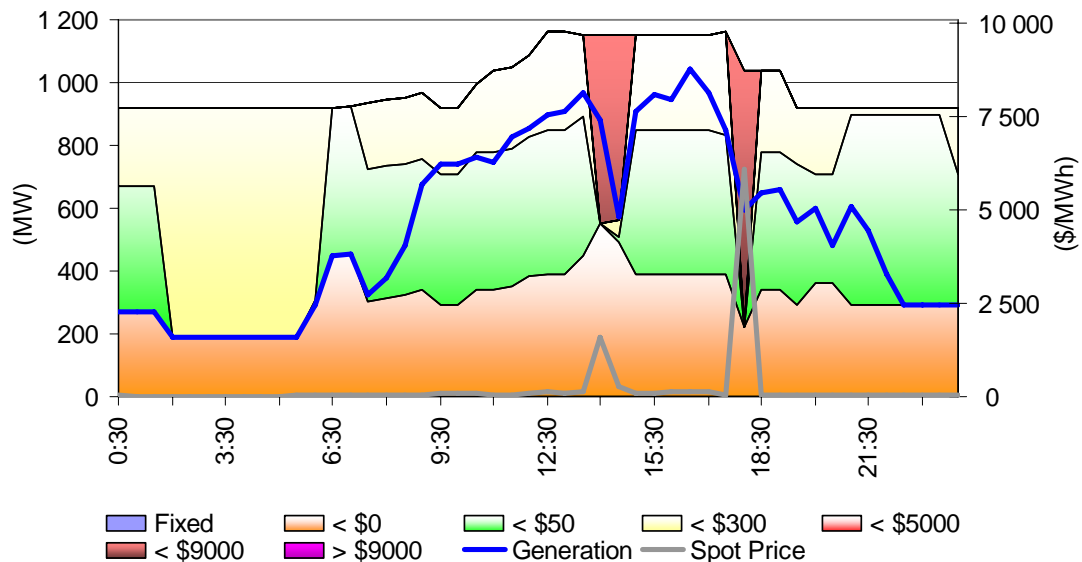


Figure 3 highlights AGL’s half hour closing bid for TIPS on 19 February 2008. It also shows the generation output of the power station and the spot price.

The price/volume trade-off rebids submitted by AGL at 1.45 pm and 5.30 pm on 19 February 2008 were the focus of the AER’s investigation. The 2.06 pm rebid, submitted once unit A4 was commercially available after testing was complete, was effectively an extension of the 1.45 pm rebid to include unit A4. The AER does not consider that the 2.06 pm rebid raised compliance issues with clause 3.8.22A of the NER.

3.2 Forecast prices on 19 February 2008

The initial pre-dispatch schedule for 19 February 2008 was published by NEMMCO at 12.30 pm on 18 February 2008¹¹. This initial forecast indicated that spot prices during 19 February 2008 would exceed \$8500/MWh in the NEM regions of South Australia and Victoria for the trading intervals ending 1.00 pm through to 4.00 pm inclusive.

NEMMCO’s pre-dispatch forecast published at 4.30 pm on 18 February 2008 predicted spot prices for South Australia and Victoria on 19 February 2008 to peak at

¹¹ NEMMCO publishes a pre-dispatch schedule for every half hour within a particular trading day beginning at 12.30 pm EST the day before the trading day to which it relates.

around \$1000/MWh. This followed AGL's rebid to continue the running of unit B1 and subsequent rebids to commit units A1 and A4 on 18 February 2008.

Throughout the morning of 19 February 2008, NEMMCO pre-dispatch forecasts predicted spot prices below \$300/MWh for the entire trading day. It is clear that AGL's rebids to increase the availability of TIPS by 440 MW for the period of high forecast demand in South Australia on 19 February 2008 suppressed the forecast spot price.

Due to AGL's rebids at 1.45 pm and 5.30 pm on 19 February 2008 being submitted immediately prior to dispatch, the \$9000/MWh spikes in the dispatch price for South Australia that resulted shortly after each rebid were not shown in NEMMCO's 30-minute pre-dispatch forecast.

The AER notes that fast-start generators rely on accurate pre-dispatch forecasts when making decisions whether to commit plant. On 19 February 2008, the 90 MW Mintaro Gas Turbine and the 50 MW Port Lincoln Power Station in South Australia, both owned by International Power (Australia) Pty Ltd, did not respond to the high dispatch prices¹².

3.3 Cumulative price for South Australia on 19 February 2008

As discussed in section 2.4, the cumulative price was close to the \$150 000 cumulative price threshold (CPT) on 18 and 19 February 2008. Following 12 consecutive spot prices in South Australia at the \$10 000/MWh price cap on 18 February 2008, during which time 820 MW of available capacity offered at TIPS was priced above \$9000/MWh, the cumulative price increased to \$134 000. Once NEMMCO's first pre-dispatch schedule for the trading day of 19 February 2008 was published at 12.30 pm on 18 February 2008, the cumulative price for South Australia was forecast to reach \$210,000 on 19 February 2008.

After AGL rebid to continue the running of unit B1 for 19 February 2008, the cumulative price was forecast to reach \$193 000 on 19 February 2008. Following the commitment of unit A1, the cumulative price was forecast to reach \$155 000. After AGL's final unit commitment of unit A4 for 19 February 2008, the cumulative price forecast for 19 February 2008 did not exceed \$141 000.

The \$1573/MWh spot price at 2 pm increased the cumulative price for South Australia to \$136 000. Following the \$6087/MWh spot price at 6 pm, the cumulative price for South Australia increased to \$143 000. The AER considers that AGL influenced the price in order to keep the cumulative price for South Australia just below the CPT.

¹² Mintaro Gas Turbine and Port Lincoln Power Station are both open cycle gas turbines (OCGT) that, according to bid information provided through market systems, require 25 minutes and 12 minutes respectively to start-up and must run for a minimum of around 30 minutes.

4 Compliance with the good faith rebidding provision

4.1 Clause 3.8.22A of the NER

Clause 3.8.22A of the NER, the ‘good faith bidding provision’, provided at the relevant time:

“3.8.22A Variation of offer, bid or rebid

- (a) *Scheduled Generators and Market Participants* must make *dispatch offers, dispatch bids and rebids* in good faith.
- (b) In clause 3.8.22A(a) a *dispatch offer, dispatch bid or rebid* is taken to be made in good faith if, at the time of making such an offer, bid or *rebid*, a *Scheduled Generator or Market Participant* has a genuine intention to honour that offer, bid or *rebid*, if the material conditions and circumstances upon which the offer, bid or *rebid* were based remain unchanged until the relevant *dispatch interval*.
- (c) A *Scheduled Generator or Market Participant* may be taken to have contravened clause 3.8.22A(a) notwithstanding that, after all the evidence has been considered, the intention of the *Scheduled Generator or Market Participant* is ascertainable only by inference from the conduct of the *Scheduled Generator or Market Participant*, or of any other person, or from relevant circumstances.”

Clause 3.8.22A is a ‘rebidding civil penalty provision’ as referred to in section 58 of the NEL, a breach of which incurs a pecuniary penalty of an amount not exceeding \$1 million and \$50,000 for every day during which a breach continues.

4.2 Confidentiality

Information that AGL was required to provide in response to the AER’s section 28 Notice dated 29 September 2008 included details of the factors considered when submitting initial offers and rebids for the trading day of 19 February 2008. Explanations of the reasons for submitting all rebids for 19 February 2008 were required due to the interaction of different rebids and in order to assess the extent to which rebids were submitted in accordance with AGL’s trading strategy.

For reasons of confidentiality in respect of the information provided by AGL during the course of the investigation, the AER is unable to provide a full account of the information received. However, AGL’s observations as to changes in data sourced from NEMMCO or other observed changes in market conditions are not confidential and are discussed below.

4.3 AER compliance assessment

In assessing AGL's compliance with clause 3.8.22A of the NER when rebidding for the trading day of 19 February 2008, the AER had regard to, amongst other things, the following information:

- changes to the pricing and amount of available capacity offered in respect of each TIPS unit as brought about by each rebid;
- the time at which each rebid was submitted;
- the trading intervals affected by the changes brought about by each rebid;
- prevailing market conditions and market data sourced from NEMMCO;
- AGL's spot market trading strategy and contractual obligations;
- explanations provided by AGL of the factors AGL considered relevant to its decision to make each rebid and the relative importance of each factor;
- confidential internal AGL working documents and correspondence; and
- reasons provided by AGL to substantiate its decisions for submitting rebids at 1.45 pm and 5.30 pm on 19 February 2008, which included, but were not limited to:
 - an increase in demand in South Australia when compared with the forecast demand at the time of earlier unit commitments;
 - an expectation that demand in South Australia would commence declining with the arrival of a cool change;
 - differences between the forecast and actual import limit and flow on the Victoria to Snowy Interconnector;
 - its wholesale position in the NEM with respect to its contractual obligations; and
 - the proximity of the cumulative price to the CPT.

4.4 Outcome of the investigation

Having regard to all of the relevant information and the evidence available relating to rebidding decisions, the AER has closed its investigation regarding AGL's compliance with clause 3.8.22A during the February 2008 period. As is typical for investigations of this nature, the AER may reopen this investigation if further information comes to light or any of the information provided is found to be inaccurate or misleading.