

NOTICE OF FILING

Details of Filing

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File Title:	STILLWATER PASTORAL COMPANY PTY LTD ACN 101 400 668 v STANWELL CORPORATION LTD ACN 078 848 674 & ANOR
Registry:	QUEENSLAND REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "Sia Lagos".

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Amended Defence

(Amended pursuant to Order 6 dated 19 December 2022)

No. QUD19 of 2021

Federal Court of Australia
District Registry: Queensland
Division: General

STILLWATER PASTORAL COMPANY PTY LTD ACN 101 400 668

Applicant

STANWELL CORPORATION LTD ACN 078 848 674

First Respondent

CS ENERGY LTD ACN 078 848 745

Second Respondent

Where defined terms in **bold** are used within this amended pleading they are to be given the meaning attributed to them in this Amended Defence (**Defence**) or in Annexure C to this Defence.

A. THE APPLICANT AND GROUP MEMBERS

1. As to paragraph 1 of the Second Further Amended Statement of Claim ~~filed on dated 5 December 2022~~ 27 September 2021 (**Statement of Claim**), the Second Respondent:
 - (a) admits that the proceeding was commenced by the Applicant as a representative proceeding pursuant to Part IVA of the *Federal Court of Australia Act 1976* (Cth);
and
 - ~~(b) admits that the proceeding is commenced on behalf of the Applicant and other persons who have as at 13 September 2021 entered into a litigation funding agreement with LCM Funding Pty Ltd ACN 638 076 098; and~~
 - (c) otherwise does not admit the allegations in subparagraphs 1(a) to ~~(d)(i)~~.

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[Form approved 01/08/2011]

2. Paragraph 2 of the Statement of Claim contains no allegation of fact against the Second Respondent but it says that:
 - (a) it utilises the definition of “Conduct Period” set out in paragraph 2 and Annexure A to the Statement of Claim without admission in this Defence; and
 - (b) while the Conduct Period extends to 6 June 2017, there is no allegation that the Second Respondent engaged in “Short-notice Rebidding” after 31 March 2017.
3. As to paragraph 3 of the Statement of Claim, the Second Respondent:
 - (a) admits the allegation that as at the date of the commencement of the proceeding, there were more than seven “group members”, as that term is defined in section 33A of the *Federal Court of Australia Act 1976* (Cth); and
 - (b) otherwise does not admit the allegations.
4. As to paragraph 4 of the Statement of Claim, the Second Respondent:
 - (a) admits the allegations in subparagraph (a);
 - (b) admits the allegation in subparagraph (c) that during the “Claim Period”, electricity was purchased by the Applicant from “Ergon Energy” and/or “Ergon Energy Retail” through account numbers 9566 9141, 9566 9132 and 1243 1168; and
 - (c) otherwise does not admit the allegations.

B. THE RESPONDENTS

5. As to paragraph 5 of the Statement of Claim, the Second Respondent:
 - (a) admits the allegations in subparagraph (a);
 - (b) as to the allegations in subparagraph (b):
 - (i) admits that at all material times the First Respondent was a Government Owned Corporation (**GOC**) within the meaning of the *Government Owned Corporations Act 1993* (Qld) (**GOCA**); ~~and~~
 - ~~(ii) denies that the First Respondent was a “Company GOC” within the meaning of the GOCA at any material time;~~
 - (c) admits the allegations in subparagraph (c);
 - (d) denies the allegations in subparagraph (d); and
 - (e) admits the allegations in subparagraph (e), subject to the denials in paragraph 9 below as to the functioning of the National Electricity Market (the **NEM**).

6. As to paragraph 6 of the Statement of Claim, the Second Respondent:
- (a) admits the allegations in subparagraph (a);
 - (b) as to the allegations in subparagraph (b):
 - (i) admits that at all material times it was a GOC within the meaning of the GOCA; and
 - ~~(ii) denies that it was a “Company GOC” within the meaning of the GOCA at any material time;~~
 - (c) admits the allegations in subparagraph (c);
 - (d) denies the allegations in subparagraph (d); and
 - (e) admits the allegations in subparagraph (e), subject to the denials in paragraph 9 below as to the functioning of the NEM.
7. The Second Respondent denies the allegations in paragraph 7 of the Statement of Claim.

C. THE OPERATION OF THE NATIONAL ELECTRICITY MARKET

8. As to paragraph 8 of the Statement of Claim, the Second Respondent:
- (a) admits the allegation that that at all material times, the NEM comprised five regions, one of which was the Queensland region (the **QRNEM**, as described in paragraph 11(c) below);
 - (b) admits the allegation that at all material times those regions were interconnected; and
 - (c) denies that the definitions of “QRNEM” in paragraph 8 and Annexure A to the Statement of Claim accurately describe the QRNEM and repeats and relies on the matters set out at paragraph 11 below.
9. As to paragraph 9 of the Statement of Claim, the Second Respondent:
- (a) admits the allegations in subparagraph (a) that at all material times the NEM was both:
 - (i) the wholesale exchange operated and administered by the Australian Energy Market Operator (**AEMO**) under the **National Electricity Law** and **National Electricity Rules** for, among other things including those listed at paragraph 10 below, the sale of electricity by generators; and
 - (ii) the physical grid of generation, transmission and distribution systems within the States and Territories participating in the NEM (**Grid**), more

specifically defined by the National Electricity Law as the **National Electricity System**;

- (b) denies the allegation in subparagraph (a)(i) that the wholesale exchange concerned the sale of electricity by “Generators” to “QRNEM Retailers” and “Market Customers” as defined in Annexure A to the Statement of Claim and says that the wholesale exchange concerned, among other things, the sale of electricity to **Market Customers** (as defined in Annexure C to this Defence);
 - (c) in relation to subparagraph (b):
 - (i) admits the allegation that the NEM facilitated the supply of electricity from companies or entities who engaged in the activity of owning, controlling or operating a generating system that generated electricity;
 - (ii) otherwise denies the allegations, including that the definition of “Generators” in subparagraph 9(b) and in Annexure A to the Statement of Claim accurately describes a “Generator” for the purposes of the NEM; and
 - (iii) says further that the NEM facilitated the supply of electricity from **Generators** (as described at paragraph 13 below and as defined in Annexure C to this Defence), not all of which was sold through the **Spot Market** (as described at paragraph 10 below and as defined in Annexure C to this Defence); and
 - (d) admits the allegations in subparagraph (c).
10. As to paragraph 10 of the Statement of Claim, the Second Respondent:
- (a) says that the **Spot Market** (as defined herein and in Annexure C to this Defence) was operated by AEMO as a mechanism for:
 - (i) balancing electricity supply and demand;
 - (ii) acquiring market ancillary services; and
 - (iii) setting a **Spot Price** for electricity at each **Regional Reference Node** and **Market Connection Point** for each **Trading Interval** and ancillary service prices at each Regional Reference Node for each **Dispatch Interval**;

Particulars

National Electricity Rules at Chapter 3, rule 3.4.1(a), and Chapter 10.

- (b) admits paragraph 10 of the Statement of Claim insofar as it reflects subparagraph (a) above; and
- (c) otherwise denies the allegations in paragraph 10 of the Statement of Claim.

C.1 The QRNEM

11. As to paragraph 11 of the Statement of Claim, and the definition of “QRNEM” set out in Annexure A to the Statement of Claim, the Second Respondent:

- (a) repeats and relies on the matters set out at paragraph 8 above and says ~~admits the allegation~~ that the boundaries of the QRNEM were determined by the **AEMC**, pursuant to the National Electricity Rules;

Particulars

National Electricity Rules at Chapter 2A and Chapter 10.

- (b) denies that the map at Annexure B to the Statement of Claim shows the QRNEM;
- (c) says further that at all material times the QRNEM was defined by reference to connection points on the transmission network and not by reference to the geographical boundaries of the State of Queensland; and

Particulars

At all material times the physical metering points defining the boundary between the Queensland and New South Wales regions were located at:

1. Dumaresq Substation on the 8L and 8M Dumaresq to Bulli Creek 330kV lines; and
2. 10.8km north of Terranora on the two 110kV lines between Terranora and Mudgeeraba (lines 757 & 758).

- (d) denies the allegation that a “regional Spot Price” was set “in relation to” the QRNEM and says further that a Spot Price was set at a Regional Reference Node.

12. As to paragraph 12 of the Statement of Claim, the Second Respondent:

- (a) admits the allegations in subparagraph (a), including the definition of “Regional Reference Node” set out in Annexure A to the Statement of Claim and adopted in Annexure C to this Defence; and
- (b) as to the allegations in subparagraph (b):

- (i) denies the allegation that at all material times during the Conduct Period the **Interconnectors** supplied no greater than approximately 1% of electricity consumed in the QRNEM and says that the volume of interconnector flow into the QRNEM and the volume of electricity consumed in the QRNEM, and therefore the percentage of total electricity consumed in the QRNEM that was supplied by the Interconnectors, varied across the Dispatch Intervals and the Trading Intervals in the Conduct Period; and
- (ii) otherwise admits the allegations.

C.2 The Spot Market

13. The Second Respondent denies the allegations in paragraph 13 of the Statement of Claim and says that at all material times:

- (a) companies or entities who engaged in the activity of owning, controlling or operating a **Generating System** (a system comprising one or more **Generating Units**) that was connected to, or otherwise supplied electricity to, the Grid were required to be registered by AEMO as generators (**Generators**);

Particulars

Section 11(1)(a) of the National Electricity Law, unless exempted from the requirement to register pursuant to section 11(1)(b).

- (b) Generators in the NEM were classified into one of two market categories and one of three scheduling categories:
 - (i) **Market Generators** (as defined in Annexure C to this Defence) were Generators whose output was at least partly sold through the Spot Market;
 - (ii) **Non-Market Generators** (as defined in Annexure C to this Defence) were Generators whose entire output was sold directly to a **Local Retailer** or **Customer** outside the Spot Market;
 - (iii) **Scheduled Generators** (as defined in Annexure C to this Defence) were an individual or group of Generating Units with a nameplate rating over 30 **MW** which was required to be operated in accordance with the **Central Dispatch** process operated by AEMO;
 - (iv) **Semi-Scheduled Generators** (as defined in Annexure C to this Defence) were an individual or group of Generating Units with a nameplate rating over 30 MW whose output was intermittent and which was required to be

operated in accordance with the Central Dispatch process operated by AEMO; and

- (v) **Non-Scheduled Generators** (as defined in Annexure C to this Defence) were an individual or group of Generating Units with a nameplate rating of less than 30 MW which did not participate in the Central Dispatch process operated by AEMO; and

- (c) in the premises, not all electricity generated to meet demand in the NEM was sold through the Spot Market.

14. As to paragraph 14 of the Statement of Claim, the Second Respondent:

- (a) admits the allegations in subparagraph (a), including the Applicant's definition of **Trading Day** set out therein and in Annexure A to the Statement of Claim and adopted in Annexure C to this Defence;
- (b) admits the allegations in subparagraph (b), including the Applicant's definition of Trading Intervals set out therein and in Annexure A to the Statement of Claim and adopted in Annexure C to this Defence;
- (c) admits the allegations in subparagraph (c), including the Applicant's definition of Dispatch Intervals set out therein and in Annexure A to the Statement of Claim and adopted in Annexure C to this Defence;
- (d) denies the allegations in subparagraph (d), including the definition of "Dispatch Offer" set out in Annexure A to the Statement of Claim, and says that:
 - (i) only Scheduled Generators and Semi-Scheduled Generators were required to make a **Dispatch Offer** (as defined in Annexure C to this Defence) for each Trading Interval by 12.30pm the day preceding the commencement of the Trading Day for the Dispatch Offer being made; and
 - (ii) Scheduled Generators and Semi-Scheduled Generators were required to make a Dispatch Offer for each of their Generating Units;
- (e) as to the allegations in subparagraph (e):
 - (i) denies that "Generators" were required to specify **Ramp Rates** and says that Scheduled Generators and Semi-Scheduled Generators were required to specify Ramp Rates for each of their Generating Units or aggregated Generating Units;

Particulars

National Electricity Rules, rules 3.8.3 and 3.8.3A.

- (ii) says further that the sum total of the MW capacity specified by a Scheduled Generating Unit or Semi-Scheduled Generating Unit as available for dispatch across all nominated price bands in a Trading Interval was limited by the MW quantity specified by that Generating Unit as its **Maximum Available Capacity**; and
- (iii) otherwise admits the allegations, including the Applicant's definition of "Ramp Rate" set out in Annexure A to the Statement of Claim and adopted in Annexure C to this Defence;
- (f) admits the allegations in subparagraph (f);
- (g) as to the allegations in subparagraph (g):
 - (i) denies the Applicant's definition of "Dispatch Algorithm" set out in Annexure A to the Statement of Claim and relies on the definition of **Dispatch Algorithm** set out in Annexure C to this Defence;
 - (ii) denies that AEMO used the Dispatch Algorithm to stack "Dispatch Offers" in a "Merit Order" and says further that forecasts were made by AEMO utilising the Dispatch Algorithm, taking into account multiple factors in the Central Dispatch process including:
 - (1) dispatch offers, dispatch bids and market ancillary service offers;
 - (2) constraints, including due to availability and commitment or, in the case of semi-scheduled generating units, identified by the unconstrained intermittent generation forecast;
 - (3) non-scheduled load requirements in each region;
 - (4) power system security requirements;
 - (5) network constraints;
 - (6) intra-regional losses and inter-regional losses;
 - (7) constraints consistent with dispatch bid and dispatch offer data;
 - (8) current levels of dispatch generation, load and market network services;
 - (9) constraints imposed by ancillary services requirements;

- (10) arrangements designed to ensure pro-rata loading of tied dispatch bid and dispatch offer data;
- (11) ensuring that as far as reasonably practical, in relation to a AEMO intervention event, the number of affected participants and the effect on interconnector flows is minimised; and
- (12) the management of negative settlements residue;

Particulars

National Electricity Rules, rule 3.8.1(b).

- (iii) denies that the process referred to in the preceding subparagraph 14(g)(ii) took place after each Scheduled Generator's or Semi-Scheduled Generator's Dispatch Offers were "submitted" to AEMO and says that it took place after 12.30pm the day preceding the commencement of the Trading Day for the Dispatch Offer being made; and
- (iv) otherwise denies the allegations;
- (h) denies the allegations in subparagraph (h) and says that:
 - (i) after 12.30pm and no later than 4.00pm the day before the commencement of the next Trading Day, AEMO published to all **Market Participants** a pre-dispatch schedule for the next Trading Day, which:
 - (1) contained, among other information, the aggregate **Generating Plant** availability for each region of the NEM for each Trading Interval; and

Particulars

National Electricity Rules, rules 3.8.20 and 3.13.4(e) to (f).

Spot Market Operations Timetable as relevantly in force,
Part 4.3.

- (2) did not contain any information that was confidential as between AEMO and individual Generators, including the amount of available capacity bid by each Generating Unit or aggregated Generating Units in individual Generators' Dispatch Offers, or the allocation of that capacity between price bands;

Particulars

National Electricity Rules, rule 3.8.20(j).

AEMO 'Pre-dispatch System Operating Procedure SO_OP_3704', version 11, Part 6.2 'Unit Specific data'; versions 12 to 14, Part 7.2 'Unit Specific data'.

- (ii) after 12.30pm and no later than 4.00pm the day before the commencement of the next Trading Day, AEMO published to all Market Participants forecasts of spot prices at each Regional Reference Node for the next Trading Day;

Particulars

National Electricity Rules, rule 3.13.4(g).

Spot Market Operations Timetable as relevantly in force,
Part 4.4.

- (iii) after the start of a Trading Day at 4.00am, AEMO published to all Market Participants:
 - (1) updated pre-dispatch schedules for future Trading Intervals every half hour from the start of the Trading Day, taking into account any valid **Rebids** (as defined in Annexure C to this Defence); and
 - (2) updated pre-dispatch schedules for future Dispatch Intervals every 5 minutes in the hour prior to the start of a given Dispatch Interval, taking into account any valid Rebids;

Particulars

National Electricity Rules, rules 3.8.20 and 3.13.4(e).

Spot Market Operations Timetable as relevantly in force,
Part 4.4.

- (3) none of the pre-dispatch information published to all Market Participants (as detailed in the preceding subparagraphs (1) and (2)) contained any unit-specific information that was confidential as between AEMO and individual Generators, including the amount of available capacity bid by each Generating Unit or aggregated Generating Units in individual Generators' Dispatch Offers, or the allocation of that capacity between price bands; and

Particulars

AEMO 'Pre-dispatch System Operating Procedure SO_OP_3704', version 11, Part 6.2 'Unit Specific data'; versions 12 to 14, Part 7.2 'Unit Specific data'.

- (iv) after the start of a Trading Day at 4.00am, AEMO published to individual Generators, on a confidential basis and on the same timetable as set out in the preceding subparagraphs 14(h)(iii)(1) and (2) above, updated pre-dispatch information for future Trading Intervals, including forecasting whether or not that Generator would be required to dispatch electricity in a given Trading Interval;
- (i) as to the allegations in subparagraph (i):
 - (i) denies that the nominated price bands in a Dispatch Offer were required to remain fixed once a Dispatch Offer was "submitted" to AEMO and says that:
 - (1) after the initial submission of a **Preliminary Dispatch Offer**, a Generator could amend its Preliminary Dispatch Offer up until 12.30pm the day preceding the commencement of the Trading Day for the Dispatch Offer being made; and
 - (2) the nominated price bands in a Preliminary Dispatch Offer were only required to remain fixed after 12.30pm the day preceding the commencement of the Trading Day for the Dispatch Offer being made (i.e. when the Dispatch Offer took effect); and
 - (ii) denies that the definition of "Rebid" in subparagraph (i) and Annexure A to the Statement of Claim accurately describes a rebid for the purposes of the NEM and says that after 12.30pm the day preceding the commencement of the Trading Day for the Dispatch Offer in question a Generator was permitted to submit Rebids (as defined in Annexure C to this Defence) to vary, among other things, its available capacity, daily energy constraints, dispatch inflexibilities and ramp rates of generating units, scheduled network services and scheduled loads previously notified in a Dispatch Offer, subject to:
 - (1) an obligation to provide a brief, verifiable and specific reason for any Rebid together with the time at which the event(s) or other occurrence(s) adduced by the relevant Generator as the reason for the Rebid, occurred; and

Particulars

Rule 3.8.22(c)(2) of the National Electricity Rules as they applied throughout the Conduct Period.

- (2) from 1 July 2016, the additional obligation, with respect to any Rebid made within the period beginning 15 minutes before the commencement of the Trading Interval (the **Late Rebidding Period**), to make a contemporaneous record in relation to the Rebid, which must include a record of the material conditions and circumstances giving rise to the Rebid, the Generator's reasons for making the Rebid, the time at which the relevant event(s) or other occurrence(s) occurred and the time at which the Generator first became aware of the relevant event(s) or other occurrence(s);

Particulars

Rule 3.8.22(ca) of the National Electricity Rules as they applied from 1 July 2016.

- (j) as to the allegations in subparagraph (j):
 - (i) admits that a Rebid for a Trading Interval could be made at any time after 12.30pm the day preceding the commencement of the Trading Day;
 - (ii) admits that Rebids could be made in response to market conditions;
 - (iii) denies that Rebids could be made to adjust plans in response to the offers of individual Generators because the amount of available capacity bid by each Generating Unit or aggregated Generating Units in their Dispatch Offers, or the allocation of that capacity between price bands, was confidential as between AEMO and that Generator and was not information made available to Market Participants, including the Second Respondent, until such information was made publicly available after the end of the relevant Trading Day;
 - (iv) denies that Rebids could only be made up until the start of AEMO's processing for the relevant 5-minute Dispatch Interval and says that:
 - (1) Rebids were made for a Trading Interval; and
 - (2) Rebids could only affect a Dispatch Interval if they were the current bid as at the time AEMO commenced a processing run immediately prior to the commencement of the relevant Dispatch Interval; and

- (v) ~~admits the allegation~~ denies that AEMO commenced processing ~~approximately 67 seconds before the commencement of each Dispatch Interval and says that AEMO commenced a processing run~~ *on average* 67 seconds before the commencement of each Dispatch Interval;

Particulars

AEMO 'Joint Dispatch/Systems Focus Group' presentation,
22 October 2018.

- (k) denies the allegations in subparagraph (k) and repeats and relies on the matters set out in paragraph 14(h)(iii) above;
- (l) as to the allegations in subparagraph (l):
 - (i) admits that AEMO issued dispatch instructions to Scheduled and Semi-Scheduled Generators for that Dispatch Interval (as a target for Generators for the end of the Dispatch Interval), progressively scheduling production to meet demand for each Dispatch Interval in a Trading Interval;
 - (ii) ~~denies that AEMO issued such dispatch instructions approximately 8 seconds after a Dispatch Interval started and says~~ admits that AEMO issued dispatch instructions *on average* 8 seconds after a Dispatch Interval started; and

Particulars

AEMO 'Joint Dispatch/Systems Focus Group' presentation,
22 October 2018.

- (iii) otherwise denies the allegations;
- (m) says that during the Conduct Period, the Second Respondent offered electricity for sale on the Spot Market in the manner set out at subparagraphs 14(a) to (l) above; and
- (n) otherwise does not admit the allegation that other "Generators" (including the First Respondent), to the extent that they traded electricity on the Spot Market, traded electricity in the manner alleged in subparagraphs 14(a) to (l) of the Statement of Claim.

15. As to paragraph 15 of the Statement of Claim, the Second Respondent:
 - (a) admits the allegations in subparagraph (a)(i) including the Applicant's definition of **Dispatch Price** set out in Annexure A to the Statement of Claim and adopted in Annexure C to this Defence;
 - (b) denies the allegations in subparagraph (a)(ii) and says further that in selecting which Generator's generation capacity to dispatch, the Dispatch Algorithm took into account multiple factors in the Central Dispatch process including all of the factors set out at paragraph 14(g)(ii) above;
 - (c) admits the allegation in subparagraph (a)(iii); and
 - (d) admits the allegations in subparagraph (b) including the Applicant's definition of **Spot Price** set out in Annexure A to the Statement of Claim, adopted in Annexure C to this Defence.
16. The Second Respondent denies the allegations in paragraph 16 of the Statement of Claim and says that Generators in the NEM, including the QRNEM, were not paid the Spot Price simpliciter for electricity "dispatched" during a Trading Interval.
17. The Second Respondent denies the allegations in paragraph 17 of the Statement of Claim.
18. The Second Respondent does not admit the allegations in paragraph 18 of the Statement of Claim.

C.3 Hedging in the electricity market

19. As to paragraph 19 of the Statement of Claim, the Second Respondent:
 - (a) does not admit the allegation insofar as it concerns "Generators", "QRNEM Retailers" and "Market Customers" (as defined by the Applicant in Annexure A to the Statement of Claim); and
 - (b) otherwise admits the allegations insofar as they relate to the Second Respondent.
20. As to paragraph 20 of the Statement of Claim, the Second Respondent:
 - (a) admits the allegation insofar as it admits that it entered into financial instruments (**Hedging Contracts**, as defined in Annexure C to this Defence) during the Conduct Period and beyond in order to manage exposure to risk resulting from volatility in Spot Prices;

- (b) does not admit the allegation that it entered into financial instruments with “QRNEM Retailers” and “Market Customers” as defined by the Applicant in Annexure A to the Statement of Claim; and
- (c) otherwise does not admit the allegations.

21. The Second Respondent does not admit the allegations in paragraph 21 of the Statement of Claim and is unable to plead to the allegations because of the lack of adequate particulars.

D. THE MARKET

22. As to paragraph 22 of the Statement of Claim, the Second Respondent:

- (a) says that, during the Conduct Period, it generated electricity to meet demand on the Grid;
- (b) says that, during the Conduct Period:
 - (i) electricity generated by the Second Respondent and other Generators in Queensland was transmitted by the Interconnectors between Queensland and New South Wales and supplied to Customers outside Queensland in order to meet demand across other regions in the NEM;
 - (ii) electricity generated by Generators in the NEM outside Queensland was transmitted by the Interconnectors between New South Wales and Queensland, and supplied to Customers in order to meet demand in Queensland; and
 - (iii) in determining the price at which it made offers to supply electricity into the Spot Market the Second Respondent had regard to and was constrained by offers made by other Scheduled and Semi-Scheduled Generators in the NEM, including those outside Queensland; and
- (c) by reason of the matters set out in subparagraph (b) above, the geographic dimension of the relevant market for the purpose of section 46 of the **CCA** was not limited to the QRNEM; and
- (d) otherwise denies the allegations.

E. SUBSTANTIAL DEGREE OF POWER IN THE MARKET

23. As to paragraph 23 of the Statement of Claim, the Second Respondent:

- (a) admits the allegation that the figures contained in the columns titled “Average (MW)”, “Minimum (MW)” and “Peak (MW)” in the table at paragraph 23 of the Statement of Claim are calculated on one measure of the average, minimum and

peak regional demands for electricity in the QRNEM during each of the calendar years between 2012 and 2017 when calculated by reference to Trading Intervals (i.e. on a 30-minute basis);

- (b) denies that the figures contained in the columns titled “Minimum (MW)” and “Peak (MW)” of the table at paragraph 23 of the Statement of Claim are an accurate representation of the minimum and peak regional demands for electricity in the QRNEM during each of the calendar years between 2012 and 2017 because calculation by reference to Dispatch Intervals, that is, on a 5-minute basis, would more accurately reflect the actual market conditions across Dispatch Intervals; and
- (c) does not admit the allegation that the figures contained in the column titled “Generated Electricity (MWh)” reflect the electricity generated by Scheduled and Semi-Scheduled Generators in the QRNEM in each of the calendar years between 2012 and 2017.

24. As to paragraph 24 of the Statement of Claim, the Second Respondent:

- (a) admits the allegation that during the Conduct Period it directly or indirectly owned or controlled some or all of the **Nameplate Capacity** of the Generating Systems as set out at paragraph 35(a) 26(b) below;
- (b) denies the allegation that the output of its Generating Systems was “available to meet the regional demand for electricity in the QRNEM” during the Conduct Period and says that during the Conduct Period the output of those Generating Systems was available to meet demand for electricity across the NEM, except for periods where particular Generating Units were unavailable because of, among other things, maintenance or plant failure; and
- (c) otherwise does not admit the allegations, including insofar as they relate to the First Respondent and other Generators.

E.1 Barriers to entry

25. As to paragraph 25 of the Statement of Claim, the Second Respondent:

- (a) as to the allegations in subparagraph (a):
 - (i) denies the allegations insofar as they are limited to the “Market” as defined by the Applicant and repeats and relies on the matters set out at paragraph 22 above; and
 - (ii) otherwise admits the allegations;
- (b) as to the allegations in subparagraph (b):

- (i) denies the allegations insofar as they are limited to the “Market” as defined by the Applicant and repeats and relies on the matters set out at paragraph 22 above;
 - (ii) does not admit the allegation that the approvals required were “complex”;
and
 - (iii) otherwise admits the allegations;
 - (c) admits the allegations in subparagraph (c).
26. The Second Respondent denies the allegations in paragraph 26 of the Statement of Claim because:
- (a) of the reasons set out at paragraph 22 above;
 - (b) the matters pleaded in paragraph 25 of the Statement of Claim do not support the allegation that there were “high barriers” to either the “entry of new Generators” or the “expansion of the production capacity of existing Generators” in the NEM or the QRNEM because they are pleaded at such a level of generality; and
 - (c) says further that the potential for transient ‘spikes’ in the Spot Price was a design feature of the NEM that was intended to create, amongst other things, price signals to encourage investment in new generation capacity.

Particulars

Report of Daniel Price dated 28 February 2023 at paragraph 38(c).

27. The Second Respondent denies the allegations in paragraph 27 of the Statement of Claim because:
- (a) of the reasons set out at paragraph 22 above; and
 - (b) during the Conduct Period there were several new and proposed generation projects across the NEM.

E.2 ~~E.1~~ Stanwell’s power in the Market

~~25. As to paragraph 25 of the Statement of Claim, the Second Respondent:~~

- ~~(a) denies the allegation that the First Respondent had a substantial degree of power in the “Market” (as defined by the Applicant in Annexure A to the Statement of Claim) within the meaning of section 46 of the CCA as relevantly in force; and~~
- ~~(b) otherwise does not admit the allegations in subparagraphs (a) to (g).~~

28. The Second Respondent does not admit the allegations in paragraph 28 of the Statement of Claim.
29. The Second Respondent does not admit the allegations in paragraph 29 of the Statement of Claim.
30. The Second Respondent does not admit the allegations in paragraph 30 of the Statement of Claim.
31. The Second Respondent does not admit the allegations in paragraph 31 of the Statement of Claim.
32. The Second Respondent does not admit the allegations in paragraph 32 of the Statement of Claim.
33. The Second Respondent does not admit the allegations in paragraph 33 of the Statement of Claim.
34. As to paragraph 34 of the Statement of Claim, the Second Respondent denies the allegation that the First Respondent had a substantial degree of power in the “Market” (as defined by the Applicant in Annexure A to the Statement of Claim) within the meaning of section 46 of the CCA as relevantly in force.

E.3 E.2 CSE’s power in the Market

35. ~~26.~~ As to paragraph ~~35~~ 26 of the Statement of Claim, the Second Respondent:
- ~~(a) — denies the allegation that it had a substantial degree of power in the “Market” (as defined by the Applicant in Annexure A to the Statement of Claim) within the meaning of section 46 of the CCA as relevantly in force;~~
- (a) ~~(b)~~ denies the allegations in subparagraph (a) and says further that:
- (i) during the Conduct Period the Second Respondent directly or indirectly owned or controlled some or all of the Nameplate Capacity of the following Generating Systems:

CSE Generating System	<u>Generating Units DUID</u>	2012	2013	2014	2015	2016	2017
<i>Scheduled and Semi-Scheduled Generating Systems (MW)</i>							
Callide C	<u>CPP 3</u> <u>CPP 4</u>	950	900	900	900	900	900
Callide B	<u>CALL B 1</u> <u>CALL B 2</u>	700	700	700	700	700	700
Kogan Creek	<u>KPP 1</u>	744	744	744	744	744	744

Wivenhoe	<u>PUMP1</u> <u>PUMP2</u> <u>W/HOE#1</u> <u>W/HOE#2</u>	500	500	500	500	500	500
Gladstone	<u>GSTONE1</u> <u>GSTONE2</u> <u>GSTONE3</u> <u>GSTONE4</u> <u>GSTONE5</u> <u>GSTONE6</u>	1680	1680	1680	1680	1680	1680
Sub-total		4574	4524	4524	4524	4524	4524
<i>Non-Scheduled Generating Systems (MW)</i>							
Callide A Unit 4	<u>CALL_A_4</u>	30	30	30	0	0	0
Sub-total		30	30	30	0	0	0
TOTAL		4604	4554	4554	4524	4524	4524

Particulars

The above Nameplate Capacities appear in the AEMO 'NEM Generation Information' spreadsheets for Queensland published on 31 July 2012, 13 August 2013, 15 November 2013, 28 February 2014, 30 May 2014, 8 August 2014, 10 December 2014, 15 May 2015, 13 August 2015, 26 October 2015, 15 April 2016, August 2016, 18 November 2016, 27 February 2017, 5 June 2017 and 22 December 2017.

- (ii) during the Conduct Period, the Second Respondent was (and is) the **Registered Participant** for all of the Generating Units listed in the second column of the table at subparagraph (i) above, except for CPP 3 and CPP 4;
- (iii) during the Conduct Period:
 - (1) Callide Energy Pty Ltd (**Callide Energy**), a wholly owned subsidiary of the Second Respondent, and IG Power (Callide) Ltd (**IGP**) were 50/50 participants in an unincorporated joint venture which owned and operated Callide C (including the two Generating Units CPP 3 and CPP 4);
 - (2) Callide Power Trading Pty Limited (**CPT**) was a 50/50 joint venture company owned by Callide Energy and IGP;

- (3) CPT was (and is) the Registered Participant for CPP 3 and CPP 4; and
- (4) CPT traded the electricity generated from Callide C on the basis of bids submitted by each owner;
- (iv) (ii) there are different measures of the theoretical generating capacity of a Generating System, including Nameplate Capacity, maximum capacity and registered capacity; and
- (v) (iii) the theoretical generating capacity of the Second Respondent's Generating Systems, and the Second Respondent's share of the theoretical generating capacity of all Generating Systems physically located in Queensland, is irrelevant for the purposes of this proceeding because the actual generating capacity of each of the Second Respondent's Generating Systems, and the other Generating Systems in the NEM, varied across the Trading Intervals in the Conduct Period and was affected by, among other things, maintenance or plant failure; and
- (b) ~~(c) does not admit the allegation in subparagraph (b);~~
- (d) ~~denies the allegation in subparagraph (c);~~
- (e) ~~does not admit the allegation in subparagraph (d);~~
- (f) ~~denies the allegation in subparagraph (e) and repeats and relies on the matters set out in paragraphs 29 to 35 below; and~~
- (g) ~~denies the allegations in subparagraph (f) and says that:~~
 - (i) ~~on the Applicant's definition of "Pivotal Generator" at paragraph 25(c) of the Statement of Claim, a Generator was considered "pivotal" only in the sense that it owned or controlled the output of Generating Units that were required to generate at least some electricity in order to meet demand in the QRNEM; and~~
 - (ii) ~~on that basis, the Applicant's definition of "Pivotal Generator":~~
 - (1) ~~does not equate to an unconstrained ability to engage in the "Gaming Strategies" as alleged at paragraphs 29 to 35 of the Statement of Claim; and~~
 - (2) ~~does not equate to a "Pivotal Generator" being able to set a Dispatch Price, as alleged at paragraphs 30(b)(iii) and 30(e) of the Statement of Claim.~~

36. As to paragraph 36 of the Statement of Claim, the Second Respondent:
- (a) as to the allegation in subparagraph (a):
 - (i) does not admit the Applicant's definition of "Dispatch Units" set out in Annexure A to the Statement of Claim and relies on the definition of Generating Units set out in Annexure C to this Defence;
 - (ii) otherwise admits the allegation in subparagraph (a);
 - (b) denies the allegations in subparagraph (b);
 - (c) does not admit the allegations in subparagraph (c) and says further that the theoretical generating capacity of the Second Respondent's Generating Systems during the Conduct Period, and the Second Respondent's share of the theoretical generating capacity of all Generating Systems supplying the QRNEM during the Conduct Period, is irrelevant for the purposes of this proceeding because the actual generating capacity of each of the Second Respondent's Generating Systems, and the other Generating Systems in the NEM, varied across the Trading Intervals in the Conduct Period and was affected by, among other things, maintenance or plant failure; and
 - (d) does not admit the allegations in subparagraph (d).
37. The Second Respondent denies the allegations in paragraph 37 of the Statement of Claim.
38. The Second Respondent denies the allegations in paragraph 38 of the Statement of Claim.
39. The Second Respondent denies the allegations in paragraph 39 of the Statement of Claim.
40. The Second Respondent denies the allegations in paragraph 40 of the Statement of Claim and says further that even if a Generator engaged in "Short-notice Rebidding" (as defined in paragraph 44 of the Statement of Claim) that would not be capable of being an indication of the existence of substantial market power by the Generator because:
- (a) the alleged 'spikes' in the Spot Price over the Conduct Period are transient and so not indications of the persistent absence of economic constraint or persistently limited economic constraint; and
 - (b) the conduct defined as "Short-notice Rebidding" was not rationally made possible by the persistent absence of economic constraint or persistently limited economic constraint.

41. The Second Respondent denies the allegations in paragraph 41 of the Statement of Claim.

E.4 ~~E.3~~ Aggregate Market Power

42. ~~27~~ As to paragraph ~~27~~ 42 of the Statement of Claim, the Second Respondent:
- (a) denies the allegation in subparagraph (a); and
 - (b) denies the allegation in subparagraph (b), including and even if the First Respondent and the Second Respondent were related within the meaning of section 4A of the CCA as pleaded in paragraph 7 of the Statement of Claim (which is denied).
43. ~~28~~ The Second Respondent denies the allegations in paragraph ~~28~~ 43 of the Statement of Claim.

F. CONDUCT OF STANWELL AND CSE – 1 JANUARY 2012 TO 6 JUNE 2017

- ~~29. As to paragraph 29 of the Statement of Claim, the Second Respondent:~~

- ~~(a) denies the allegations insofar as they relate to the Second Respondent's conduct during the Conduct Period; and~~
- ~~(b) otherwise does not admit the allegations.~~

~~F.1 Late Change to Dispatch Offers (Late Rebidding)~~

- ~~30. As to paragraph 30 of the Statement of Claim, the Second Respondent:~~

- ~~(a) denies the allegation that, during the Conduct Period, the Second Respondent engaged in the "Late Rebidding" trading strategy set out in subparagraphs (a) to (g) and defined in Annexure A to the Statement of Claim;~~
- ~~(b) does not admit the allegation that, during the Conduct Period, the First Respondent engaged in the "Late Rebidding" trading strategy set out in subparagraphs (a) to (g) and defined in Annexure A to the Statement of Claim and says that, in any event, no claim is made against the Second Respondent on the basis of the strategy or conduct of the First Respondent;~~
- ~~(c) says that of the 1,680 "Targeted Trading Intervals" (as defined in Annexure A to the Statement of Claim and as that term is utilised in this Defence without admission) particularised by the Applicant in Table 1 of its particulars provided on 25 August 2021 (the August particulars):~~
 - ~~(i) 64 of those Trading Intervals occur on dates on or after 7 June 2017, which is outside the Conduct Period; and~~

- (ii) ~~those 64 Trading Intervals are therefore incapable of constituting Targeted Trading Intervals in which the “Late Rebidding” strategy was allegedly employed by either Respondent;~~

Particulars

~~The 64 Trading Intervals are recorded with the value “Excluded” in **TTI Filter 1** in the Annexure A Spreadsheet at Column H.~~

~~Columns A to G of the Annexure A Spreadsheet replicate the data contained in Table 1 of the August particulars and Columns H to N contain the Second Respondent’s TTI Filters to be applied as described in paragraphs 30(c) to (i) of this Defence.~~

- (d) ~~says that of the 1,680 Targeted Trading Intervals particularised by the Applicant in Table 1 of the August particulars:~~

- (i) ~~in 427 of those Trading Intervals:~~

(1) ~~the price in Dispatch Interval 5 was higher than or equal to all other Dispatch Prices in the Trading Interval but neither of the Respondents made a Rebid within the DI5 Rebid Window; or~~

(2) ~~the price in Dispatch Interval 6 was higher than all other Dispatch Prices in the Trading Interval but neither of the Respondents made a Rebid within the DI6 Rebid Window; and~~

- (ii) ~~those 427 Trading Intervals are therefore incapable of constituting Targeted Trading Intervals in which the “Late Rebidding” strategy was allegedly employed by either Respondent, on that part of the Applicant’s case set out at subparagraph 30(d) of the Statement of Claim;~~

Particulars

~~The 427 Trading Intervals are recorded with the value “Excluded” in **TTI Filter 2** in the Annexure A Spreadsheet at Column I.~~

~~The **DI5 Rebid Window** means the period commencing on average 67 seconds before the start of Dispatch Interval 4 and ending on average 67 seconds before the start of Dispatch Interval 5.~~

~~The **DI6 Rebid Window** means the period commencing on average 67 seconds before the start of Dispatch Interval 5 and ending on average 67 seconds before the start of Dispatch Interval 6.~~

~~(e) — says that of the 1,680 Targeted Trading Intervals particularised by the Applicant in Table 1 of the August particulars:~~

- ~~(i) — in 462 of those Trading Intervals there was no effective change to the price at which either the First Respondent and/or the Second Respondent made available capacity in either the DI5 Rebid Window or the DI6 Rebid Window as applicable between the “Offer” and the “Rebid” (as those terms are used by the Applicant) after accounting for Maximum Available Capacity; and~~
- ~~(ii) — those 462 Trading Intervals are therefore incapable of constituting Targeted Trading Intervals in which the “Late Rebidding” strategy was allegedly employed by either Respondent;~~

Particulars

~~The 462 Trading Intervals are recorded with the value “Excluded” in **TTI Filter 3** in the Annexure A Spreadsheet at Column J.~~

~~(f) — says that of the 1,680 Targeted Trading Intervals particularised by the Applicant in Table 1 of the August particulars:~~

- ~~(i) — in 725 of those Trading Intervals, prior to a Rebid in either the DI5 Rebid Window or the DI6 Rebid Window (as applicable), neither the First Respondent nor the Second Respondent “bid large volumes of capacity in low prices bands” in their Preliminary Dispatch Offers, their Dispatch Offers, and in “any valid rebids made prior to the Rebid referred to in subparagraph 30(e)” of the Statement of Claim; and~~
- ~~(ii) — those 725 Trading Intervals are therefore incapable of constituting Targeted Trading Intervals in which the “Late Rebidding” strategy was allegedly employed by either Respondent, on that part of the Applicant’s case set out at subparagraph 30(a) of the Statement of Claim;~~

Particulars

~~The 725 Trading Intervals are recorded with the value “Excluded” in **TTI Filter 4** in the Annexure A Spreadsheet at Column K.~~

~~For the purposes of TTI Filter 4, and referring to the methodology set out by the Applicant in paragraph 8 of its cover letter to the August particulars (without admission):~~

- ~~1. — a “low price band” has a price below the 25th percentile of all pricing run Dispatch Prices at the Regional Reference Node~~

for Queensland across the Conduct Period (1 January 2012 to 6 June 2017); and

2. a “large volume of capacity” means that the proportion of electricity being offered in low price bands relative to the Maximum Available Capacity was above 50%.

(g) says that of the 1,680 Targeted Trading Intervals particularised by the Applicant in Table 1 of the August particulars:

- (i) in 774 of those Trading Intervals the Second Respondent did not Rebid within the DI5 Rebid Window (where the price in Dispatch Interval 5 was higher than or equal to all other Dispatch Prices in the Trading Interval) or the DI6 Rebid Window (where the price in Dispatch Interval 6 was higher than all other Dispatch Prices in the Trading Interval); and
- (ii) those 774 Trading Intervals are therefore incapable of constituting Targeted Trading Intervals in which the “Late Rebidding” strategy was allegedly employed by the Second Respondent (as opposed to the First Respondent), on that part of the Applicant’s case set out at subparagraph 30(e) of the Statement of Claim;

Particulars

The 774 Trading Intervals are recorded with the value “Excluded” in **TTI Filter 5** in the Annexure A Spreadsheet at Column L.

(h) says that of the 1,680 Targeted Trading Intervals particularised by the Applicant in Table 1 of the August particulars:

- (i) in 10 of those Trading Intervals all “Competing Generators” (not including the First Respondent as a “Competing Generator”) were generating electricity in either the fifth or sixth Dispatch Interval (as applicable) of the Targeted Trading Interval; and
- (ii) those 10 Trading Intervals are therefore incapable of constituting Targeted Trading Intervals in which the “Late Rebidding” strategy was allegedly employed, on that part of the Applicant’s case set out at subparagraph 30(d) of the Statement of Claim;

Particulars

The 10 Trading Intervals are recorded with the value “Excluded” in **TTI Filter 6** in the Annexure A Spreadsheet at Column M.

- ~~(i) — says that of the 1,680 Targeted Trading Intervals particularised by the Applicant in Table 1 of the August particulars:~~
 - ~~(i) — in 1,011 of those Trading Intervals all “Competing Generators” (not including the First Respondent as a “Competing Generator”) who were not generating during the Targeted Trading Interval were also not generating at all during:~~
 - ~~(1) — the 1 hour period prior to the start of the Targeted Trading Interval;~~
and
 - ~~(2) — the 1 hour period after the end of the Targeted Trading Interval;~~
and
 - ~~(ii) — those 1,011 Trading Intervals are therefore incapable of constituting Targeted Trading Intervals in which the “Late Rebidding” strategy was allegedly employed by the Second Respondent to the effect contended for by the Applicant in paragraph 30 of the Statement of Claim;~~

Particulars

The 1,011 Trading Intervals are recorded with the value “Excluded” in **TTI Filter 7** in the Annexure A Spreadsheet at Column N.

- ~~(j) — says that, in the premises of the matters pleaded in subparagraphs 30(c) to (i) above, of the 1,680 Targeted Trading Intervals particularised by the Applicant in Table 1 of the August particulars, a total of 1,432 (85%) of those Trading Intervals are incapable of constituting Targeted Trading Intervals in which the “Late Rebidding” trading strategy was allegedly employed by the Second Respondent to the effect contended for by the Applicant in paragraph 30 of the Statement of Claim; and~~
 - ~~(k) — denies that any of the 1,680 Targeted Trading Intervals particularised by the Applicant in Table 1 of the August particulars were Targeted Trading Intervals as defined in paragraph 30 of the Statement of Claim or in respect of which the Second Respondent engaged in the “Late Rebidding” trading strategy.~~
- ~~31. — The Second Respondent denies the allegations in paragraph 31 of the Statement of Claim insofar as they relate to the Second Respondent and otherwise does not admit and is unable to plead to the allegations because of the lack of adequate particulars.~~

~~32. The Second Respondent denies the allegations in paragraph 32 of the Statement of Claim insofar as they relate to the Second Respondent and otherwise does not admit and is unable to plead to the allegations because of the lack of adequate particulars.~~

F.2 Early Spiking

~~33. As to paragraph 33 of the Statement of Claim, the Second Respondent:~~

- ~~(a) denies the allegation that, during the Conduct Period, the Second Respondent engaged in the “Early Spiking” trading strategy set out in subparagraphs (a) to (k) and defined in Annexure A to the Statement of Claim;~~
- ~~(b) does not admit the allegation that, during the Conduct Period, the First Respondent engaged in the “Early Spiking” trading strategy set out in subparagraphs (a) to (k) and defined in Annexure A to the Statement of Claim and says that, in any event, no claim is made against the Second Respondent on the basis of the strategy or conduct of the First Respondent;~~
- ~~(c) says that of the 224 “Spiking Targeted Trading Intervals” (as defined in Annexure A to the Statement of Claim and as that term is utilised in this Defence without admission) particularised by the Applicant in Table 2 of the August particulars:

 - ~~(i) 11 of those Trading Intervals occur on dates on or after 7 June 2017, which is outside the Conduct Period; and~~
 - ~~(ii) those 11 Trading Intervals are therefore incapable of constituting Spiking Targeted Trading Intervals in which the “Early Spiking” strategy was allegedly employed by either Respondent;~~~~

Particulars

~~The 11 Trading Intervals are recorded with the value “Excluded” in **STTI Filter 1** in the Annexure B Spreadsheet at Column H.~~

~~Columns A to G of the Annexure B Spreadsheet replicate the data contained in Table 2 of the August particulars and Columns H to N contain the Second Respondent’s STTI Filters to be applied as described in paragraphs 33(c) to (i) of this Defence.~~

- ~~(d) says that of the 224 Spiking Targeted Trading Intervals particularised by the Applicant in Table 2 of the August particulars:

 - ~~(i) in 64 of those Trading Intervals neither of the Respondents made a “First Rebid” within the First Rebid Window; and~~~~

- (ii) ~~those 64 Trading Intervals are therefore incapable of constituting Spiking Targeted Trading Intervals in which the “Early Spiking” strategy was allegedly employed by either Respondent, on that part of the Applicant’s case set out at subparagraph 33(d) of the Statement of Claim;~~

Particulars

~~The 64 Trading Intervals are recorded with the value “Excluded” in **STTI Filter 2** in the Annexure B Spreadsheet at Column I.~~

~~The **First Rebid Window** means the period commencing at the start of Dispatch Interval 5 in the Trading Interval prior to the alleged Spiking Targeted Trading Interval and ending on average 67 seconds before the start of Dispatch Interval 1 in the alleged Spiking Targeted Trading Interval.~~

- (e) ~~says that of the 224 Spiking Targeted Trading Intervals particularised by the Applicant in Table 2 of the August particulars:~~

- (i) ~~in 89 of those Trading Intervals there was no effective change to either the First Respondent’s and/or the Second Respondent’s available capacity between the “Offer” and the “First Rebid” (as those terms are used by the Applicant) after accounting for:~~

~~(1) Maximum Available Capacity; and~~

~~(2) errors in the Applicant’s comparison between the Trading Intervals preceding the alleged Spiking Targeted Trading Intervals and the alleged Spiking Targeted Trading Intervals; and~~

- (ii) ~~those 89 Trading Intervals are therefore incapable of constituting Spiking Targeted Trading Intervals in which the “Early Spiking” strategy was allegedly employed by either Respondent;~~

Particulars

~~The 89 Trading Intervals are recorded with the value “Excluded” in **STTI Filter 3** in the Annexure B Spreadsheet at Column J.~~

- (f) ~~says that of the 224 Spiking Targeted Trading Intervals particularised by the Applicant in Table 2 of the August particulars:~~

- (i) ~~in 94 of those Trading Intervals, prior to a First Rebid in the First Rebid Window, neither the First Respondent nor the Second Respondent “bid large volumes of capacity in low prices bands” (in their Preliminary Dispatch Offers, their Dispatch Offers, and in “any valid rebids made prior~~

to the 'First Rebid' defined in subparagraph 33(f)" of the Statement of Claim) for the Spiking Targeted Trading Interval itself, and the Trading Interval preceding the Spiking Targeted Trading Interval; and

- (ii) — those 94 Trading Intervals are therefore incapable of constituting Spiking Targeted Trading Intervals in which the "Early Spiking" strategy was allegedly employed by either Respondent, on that part of the Applicant's case set out at subparagraph 33(a) of the Statement of Claim;

Particulars

The 94 Trading Intervals are recorded with the value "Excluded" in **STTI Filter 4** in the Annexure B Spreadsheet at Column K.

- (g) — says that of the 224 Spiking Targeted Trading Intervals particularised by the Applicant in Table 2 of the August particulars:

- (i) — in 149 of those Spiking Targeted Trading Intervals neither of the Respondents made a "Second Rebid" in the Second Rebid Window after it had made a First Rebid in the First Rebid Window; and
- (ii) — those 149 Trading Intervals are therefore incapable of constituting Spiking Targeted Trading Intervals in which the "Early Spiking" strategy was allegedly employed by either Respondent, on that part of the Applicant's case set out at subparagraph 33(i) of the Statement of Claim;

Particulars

The 149 Trading Intervals are recorded with the value "Excluded" in **STTI Filter 5** in the Annexure B Spreadsheet at Column L.

The **Second Rebid Window** means the period commencing at the start of Dispatch Interval 1 and ending on average 67 seconds before the start of Dispatch Interval 2 in the alleged Spiking Targeted Trading Interval.

- (h) — says that of the 224 Spiking Targeted Trading Intervals particularised by the Applicant in Table 2 of the August particulars:

- (i) — in 97 of those Trading Intervals the Second Respondent did not make a "First Rebid" within the First Rebid Window; and
- (ii) — those 97 Trading Intervals are therefore incapable of constituting Spiking Targeted Trading Intervals in which the "Early Spiking" strategy was allegedly employed by the Second Respondent (as opposed to the First Respondent);

Particulars

~~The 97 Trading Intervals are recorded with the value “Excluded” in STTI Filter 6 in the Annexure B Spreadsheet at Column M.~~

- ~~(i) — says that of the 224 Spiking Targeted Trading Intervals particularised by the Applicant in Table 2 of the August particulars:~~
 - ~~(i) — in 134 of these Trading Intervals all “Competing Generators” (not including the First Respondent as a “Competing Generator”) who were not generating during the Spiking Targeted Trading Interval were also not generating at all during:~~
 - ~~(1) — the 1 hour period prior to the start of the Spiking Targeted Trading Interval; and~~
 - ~~(2) — the 1 hour period after the end of the Spiking Targeted Trading Interval; and~~
 - ~~(ii) — those 134 Trading Intervals are therefore incapable of constituting Spiking Targeted Trading Intervals in which the “Early Spiking” strategy was allegedly employed by the Second Respondent to the effect contended for by the Applicant in paragraph 33 of the Statement of Claim;~~

Particulars

~~The 134 Trading Intervals are recorded with the value “Excluded” in STTI Filter 7 in the Annexure B Spreadsheet at Column N.~~

- ~~(j) — says that, in the premises of the matters pleaded in subparagraphs 33(c) to (i) above, of the 224 Spiking Targeted Trading Intervals particularised by the Applicant in Table 2 of the August particulars, a total of 200 (89%) of those Trading Intervals are incapable of constituting Spiking Targeted Trading Intervals in which the “Early Spiking” trading strategy was allegedly employed by the Second Respondent to the effect contended for by the Applicant in paragraph 33 of the Statement of Claim; and~~
 - ~~(k) — denies that any of the 224 Spiking Targeted Trading Intervals particularised by the Applicant in Table 2 of the August particulars were Spiking Targeted Trading Intervals as defined in paragraph 33 of the Statement of Claim or in respect of which the Second Respondent engaged in the Early Spiking trading strategy.~~
- ~~34. — The Second Respondent denies the allegations in paragraph 34 of the Statement of Claim insofar as they relate to the Second Respondent and otherwise does not admit the allegations.~~

~~35. The Second Respondent denies the allegations in paragraph 35 of the Statement of Claim insofar as they relate to the Second Respondent and otherwise does not admit the allegations.~~

F.1 Short-notice Rebidding

44. As to paragraph 44 of the Statement of Claim, the Second Respondent:

- (a) denies the allegation that, during the Conduct Period, the Second Respondent engaged in the “Short-notice Rebidding” trading strategy set out in subparagraphs (a) to (c) and defined in Annexure A to the Statement of Claim, in any of the:
 - (i) 362 Dispatch Intervals identified as the Second Respondent’s “CS Energy’s DIs” in Annexure F to the Statement of Claim; and
 - (ii) 309 Trading Intervals identified as the Second Respondent’s “Affected Trading Intervals” in Table 3 in the First Ledgerwood Report and listed in “Table A.4. – List of CS Energy trading intervals” of Appendix C to that report;
- (b) does not admit the allegation that, during the Conduct Period, the First Respondent engaged in the “Short-notice Rebidding” trading strategy set out in subparagraphs (a) to (c) and defined in Annexure A to the Statement of Claim and says that, in any event, no claim is made against the Second Respondent on the basis of the strategy or conduct of the First Respondent;
- (c) says that of the 309 Trading Intervals identified as the Second Respondent’s “Affected Trading Intervals” in the First Ledgerwood Report and listed in “Table A.4. – List of CS Energy trading intervals” of Appendix C to that report:
 - (i) the Callide C Generating Units CPP_3 and CPP_4 were identified as having made allegedly-offending Rebids (**Callide C Rebids**) in 127 of those 309 Trading Intervals;
 - (ii) in relation to 45 of those 127 Trading Intervals, the only Rebids identified in the First Ledgerwood Report were Callide C Rebids and those Callide C Rebids were not made by Callide Energy;

Particulars

The 45 Trading Intervals are recorded in **Annexure A** to this Amended Defence.

Particulars of the Callide C joint venture are set out at paragraph 35(a)(iii) above.

- (iii) in relation to a further 67 of those 127 Trading Intervals, Callide C Rebids and the Second Respondent's Rebids in respect of Generating Units other than Callide C are identified in the First Ledgerwood Report and in those 67 Trading Intervals, the Callide C Rebids were not made by Callide Energy;

Particulars

The 67 Trading Intervals are recorded in **Annexure B** to this Amended Defence.

Particulars of the Callide C joint venture are set out at paragraph 35(a)(iii) above.

- (iv) in the premises of paragraphs 35(a)(iii) and 44(c)(ii) above, those 45 Trading Intervals are therefore incapable of constituting Affected Trading Intervals in which the "Short-notice Rebidding" strategy was allegedly employed by the Second Respondent to the effect contended for by the Applicant in paragraph 44 of the Statement of Claim; and
- (d) says that of the 309 Trading Intervals identified as the Second Respondent's "Affected Trading Intervals" in the First Ledgerwood Report and listed in Appendix C to that report, in 22 of those Trading Intervals, the allegedly offending Rebid was not the final Rebid affecting the "Targeted Dispatch Interval";

Particulars

Report of Daniel Price dated 28 February 2023 at paragraphs 103 to 111.

- (e) denies that any of the 362 Dispatch Intervals identified as the Second Respondent's "CS Energy's DIs" in Annexure F to the Statement of Claim were:
- (i) Targeted Dispatch Intervals as defined in paragraph 44(a) of the Statement of Claim and Annexure A to the Statement of Claim; or
- (ii) Affected Dispatch Intervals as defined in Annexure A to the Statement of Claim;
- (f) denies that any of the 309 Trading Intervals identified as the Second Respondent's "Affected Trading Intervals" in Table 3 in the First Ledgerwood Report and listed in "Table A.4. – List of CS Energy trading intervals" of Appendix C to that report were:

- (i) Targeted Trading Intervals as defined in paragraph 44(a) of the Statement of Claim and Annexure A to the Statement of Claim; or
 - (ii) Affected Trading Intervals as defined in Annexure A to the Statement of Claim; and
 - (g) otherwise denies paragraph 44.
45. The Second Respondent denies the allegations in paragraph 45 of the Statement of Claim.

G. SHORT-NOTICE REBIDDING – TAKING ADVANTAGE AND PURPOSE TAKING ADVANTAGE OF MARKET POWER

G.1 Taking advantage of Market Power

36. ~~As to paragraph 36 of the Statement of Claim, the Second Respondent:~~
- ~~(a) denies the allegations insofar as they relate to the Second Respondent; and~~
 - ~~(b) does not admit the allegations insofar as they relate to the conduct of the First Respondent.~~
37. ~~As to paragraph 37 of the Statement of Claim, the Second Respondent:~~
- ~~(a) denies the allegations insofar as they relate to the Second Respondent; and~~
 - ~~(b) does not admit the allegations insofar as they relate to the conduct of the First Respondent.~~
38. ~~As to paragraph 38 of the Statement of Claim, the Second Respondent:~~
- ~~(a) denies the allegations insofar as they relate to the Second Respondent; and~~
 - ~~(b) does not admit the allegations insofar as they relate to the conduct of the First Respondent.~~
39. ~~As to paragraph 39 of the Statement of Claim, the Second Respondent denies the allegations and repeats and relies on the matters set out at paragraphs 36 to 38 above.~~
46. As to paragraph 46 of the Statement of Claim, the Second Respondent:
- (a) denies the allegations insofar as they relate to the Second Respondent; and
 - (b) does not admit the allegations insofar as they relate to the conduct of the First Respondent.
47. As to paragraph 47 of the Statement of Claim, the Second Respondent:
- (a) denies the allegations insofar as they relate to the Second Respondent; and

- (b) does not admit the allegations insofar as they relate to the conduct of the First Respondent.
- 48. As to paragraph 48 of the Statement of Claim, the Second Respondent:
 - (a) denies the allegations insofar as they relate to the Second Respondent; and
 - (b) does not admit the allegations insofar as they relate to the conduct of the First Respondent.
- 49. As to paragraph 49 of the Statement of Claim, the Second Respondent:
 - (a) denies the allegations insofar as they relate to the Second Respondent; and
 - (b) does not admit the allegations insofar as they relate to the conduct of the First Respondent.
- 50. As to paragraph 50 of the Statement of Claim, the Second Respondent:
 - (a) denies the allegations insofar as they relate to the Second Respondent; and
 - (b) does not admit the allegations insofar as they relate to the conduct of the First Respondent.
- 51. As to paragraph 51 of the Statement of Claim, the Second Respondent:
 - (a) denies the allegations insofar as they relate to the Second Respondent; and
 - (b) does not admit the allegations insofar as they relate to the conduct of the First Respondent.

G.2 Proscribed purpose (in taking advantage) ~~Taking advantage for a proscribed purpose~~

- ~~40. As to paragraph 40 of the Statement of Claim, the Second Respondent:~~
 - ~~(a) denies that it engaged in the “Late Rebidding” trading strategy as alleged at paragraph 30 of the Statement of Claim and repeats and relies on the matters set out at paragraphs 30 to 32 above;~~
 - ~~(b) alternatively, even if it did engage in the “Late Rebidding” trading strategy as alleged at paragraph 30 of the Statement of Claim (which is denied), denies that it engaged in that conduct for the substantial purpose of deterring or preventing “Competing Generators” from competing to supply electricity to the NEM, including the QRNEM, in the Targeted Trading Intervals; and~~
 - ~~(c) otherwise does not admit the allegations insofar as they relate to the conduct of the First Respondent.~~

41. ~~As to paragraph 41 of the Statement of Claim, the Second Respondent:~~

- ~~(a) denies that it engaged in the “Early Spiking” trading strategy as alleged at paragraph 33 of the Statement of Claim and repeats and relies on the matters set out at paragraphs 33 to 35 above;~~
- ~~(b) alternatively, even if it did engage in the “Early Spiking” trading strategy as alleged at paragraph 33 of the Statement of Claim (which is denied), denies that it engaged in that conduct for the substantial purpose of deterring or preventing “Competing Generators” from competing to supply electricity to the NEM, including the QRNEM, in the Spiking Targeted Trading Intervals; and~~
- ~~(c) otherwise does not admit the allegations insofar as they relate to the conduct of the First Respondent.~~

52. As to paragraph 52 of the Statement of Claim, the Second Respondent:

- (a) denies that it engaged in the “Short-notice Rebidding” trading strategy as alleged at paragraph 44 of the Statement of Claim and repeats and relies on the matters set out at paragraphs 44 and 45 above;
- (b) alternatively, even if it did engage in the “Short-notice Rebidding” trading strategy as alleged at paragraph 44 of the Statement of Claim (which is denied), denies that it engaged in that conduct for the substantial purpose of deterring or preventing “Competing Generators” from engaging in competitive conduct in the NEM, including the QRNEM, in the Targeted Dispatch Intervals and the Targeted Trading Intervals; and
- (c) otherwise does not admit the allegations insofar as they relate to the conduct of the First Respondent.

53. 42 As to paragraph 53 42 of the Statement of Claim, the Second Respondent:

- (a) does not admit the allegations in subparagraph (a) insofar as they relate to the conduct of the First Respondent; and
- (b) denies the allegations in subparagraph (b).

H. CAUSATION

H.1 Retail Customers purchasing from QRNEM Retailers

54. 43 The Second Respondent does not admit the allegations in paragraph 54 43 of the Statement of Claim.

55. 44 The Second Respondent denies the allegations in paragraph 55 44 of the Statement of Claim.

56. ~~45~~ The Second Respondent does not admit the allegations in paragraph 56 ~~45~~ of the Statement of Claim.

H.2 Notified Prices under standard contracts

57. ~~46~~ The Second Respondent does not admit the allegations in paragraph 57 ~~46~~ of the Statement of Claim.
58. ~~47~~ The Second Respondent denies the allegations in paragraph 58 ~~47~~ of the Statement of Claim and is unable to plead further to the allegations in the absence of any proper particulars.

H.3 Prices under market contracts

59. ~~48~~ The Second Respondent does not admit the allegations in paragraph 59 ~~48~~ of the Statement of Claim and is unable to plead further to the allegations in the absence of any proper particulars.

H.4 Standing offers/default market offers

60. ~~49~~ The Second Respondent does not admit the allegations in paragraph 60 ~~49~~ of the Statement of Claim and is unable to plead further to the allegations in the absence of any proper particulars.
61. ~~50~~ The Second Respondent denies the allegations in paragraph 61 ~~50~~ of the Statement of Claim.

H.5 Consumers purchasing directly from the Spot Market

62. ~~51~~ The Second Respondent denies the allegations in paragraph 62 ~~51~~ of the Statement of Claim.

H.6 Purchasers under a power purchase agreement

63. ~~52~~ The Second Respondent does not admit the allegations in paragraph 63 ~~52~~ of the Statement of Claim and is unable to plead to the allegations because of the lack of adequate particulars.

H.7 Effects of Short-notice Rebidding ~~Gaming Strategies~~ — ~~Spot Price inflation,~~ ~~inflation of hedging costs, Notified Price inflation, and Wholesale Cost inflation~~

64. ~~53~~ The Second Respondent denies the allegations in paragraph 64 ~~53~~ of the Statement of Claim and says that it cannot plead further as the Applicant has not pleaded or particularised the counterfactual that it alleges would have existed in the absence of the contraventions it alleges.
65. The Second Respondent denies the allegations in paragraph 65 of the Statement of Claim.

66. The Second Respondent denies the allegations in paragraph 66 of the Statement of Claim.
67. ~~54~~ The Second Respondent denies the allegations in paragraph ~~67~~ 54 of the Statement of Claim and says that it cannot plead further as the Applicant has not pleaded or particularised the counterfactual that it alleges would have existed in the absence of the contraventions it alleges.
68. ~~55~~ The Second Respondent denies the allegations in paragraph ~~68~~ 55 of the Statement of Claim and says that it cannot plead further as the Applicant has not pleaded or particularised the counterfactual that it alleges would have existed in the absence of the contraventions it alleges.

H.8 Inflation of Notified Prices

69. ~~56~~ The Second Respondent denies the allegations in paragraph ~~69~~ 56 of the Statement of Claim and says that it cannot plead further as the Applicant has not pleaded or particularised the counterfactual that it alleges would have existed in the absence of the contraventions it alleges.

H.9 Inflation of Market Wholesale Costs

70. ~~57~~ The Second Respondent denies the allegations in paragraph ~~70~~ 57 of the Statement of Claim and says that it cannot plead further as the Applicant has not pleaded or particularised the counterfactual that it alleges would have existed in the absence of the contraventions it alleges.

H.10 Inflation of prices under Default Market Offers

71. ~~58~~ The Second Respondent denies the allegations in paragraph ~~71~~ 58 of the Statement of Claim and says that it cannot plead further as the Applicant has not pleaded or particularised the counterfactual that it alleges would have existed in the absence of the contraventions it alleges.

I. LOSS AND DAMAGE

72. ~~59~~ The Second Respondent does not admit the allegations in paragraphs ~~72 to 89~~ 59 to 76 of the Statement of Claim and says that it is unable to plead to the allegations without adequate particulars of the loss and damage suffered by the Applicant and the other Group Members.

Date: 17 March 2023

A handwritten signature in cursive script, appearing to read 'E Poulos', written in black ink.

Signed by Elizabeth Poulos
Lawyer for the Second Respondent

This amended pleading was prepared by M Hodge KC QC, and F Lubett and C Schneider of Counsel.

Certificate of lawyer

I Elizabeth Poulos certify to the Court that, in relation to the defence filed on behalf of the Second Respondent, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Date: 17 March 2023



Signed by Elizabeth Poulos
Lawyer for the Second Respondent

Annexure A

~~See attached USB titled "Annexure A & B Spreadsheets".~~

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2014-12-08 13:30
2014-12-11 13:00
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Annexure B

~~See attached USB titled "Annexure A & B Spreadsheets".~~

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Annexure C - Second Respondent's Defined Terms

AEMC means the Australian Energy Market Commission.

AEMO means the Australian Energy Market Operator.

CCA means the *Competition and Consumer Act 2010* (Cth) as relevantly in force.

Central Dispatch is defined by the *National Electricity Rules* to mean the process managed by AEMO for the dispatch of *Scheduled Generating Units*, *Semi-Scheduled Generating Units*, scheduled loads, scheduled network services and market ancillary services in accordance with rule 3.8 of the *National Electricity Rules* (*National Electricity Rules*, Chapter 10 definition).

Claim Period means the period defined in paragraph 1 and Annexure A to the Statement of Claim, being 20 January 2015 to 20 January 2021 (utilised without admission).

Conduct Period means the period defined in paragraph 2 and Annexure A to the Statement of Claim, being 1 January 2012 to 6 June 2017 (utilised without admission).

Connection Point means the agreed point of supply established between network service provider(s) and another registered participant, non-registered customer or franchise customer (*National Electricity Rules*, Chapter 10 definition).

Customer means a person who:

1. engages in the activity of purchasing electricity supplied through a transmission or distribution system to a *Connection Point*; and
2. is registered by AEMO as a *Customer* under Chapter 2 of the *National Electricity Rules*; (*National Electricity Rules*, Chapter 10 definition).

Dispatch Algorithm means the algorithm used to determine *Central Dispatch* developed by AEMO in accordance with rule 3.8.1(d) of the *National Electricity Rules* (*National Electricity Rules*, Chapter 10 definition).

Dispatch Interval means one of the 5-minute periods into which each *Trading Interval* was divided.

Dispatch Offer means the notice submitted by *Scheduled Generators* or *Semi-Scheduled Generators* to AEMO as at 12.30pm the day preceding the day to which the *Dispatch Offer* relates, specifying, for each of its *Generating Units* in each of the 48 *Trading Intervals* in the *Trading Day*:

1. a *MW* quantity of electricity available for dispatch in the *Spot Market*;
2. the prices at which incremental quantities were offered (in up to ten different price bands); and
3. an up *Ramp Rate* and down *Ramp Rate*,

in accordance with rules 3.8.2, 3.8.5, and 3.8.6 of the *National Electricity Rules*.

Dispatch Price means the price determined for each *Regional Reference Node* by the *Dispatch Algorithm* each time it is run by AEMO, in accordance with rules 3.8.1 and 3.9.2(c) and (d) of the *National Electricity Rules*.

DUID means the unique reference label allocated by AEMO for each *Scheduled Generating Unit* and *Semi-Scheduled Generating Unit* (*National Electricity Rules*, Chapter 10 definition).

Generating Plant includes, in relation to a *Connection Point*, all equipment involved in generating electrical energy (*National Electricity Rules*, Chapter 10 definition).

Generating System means a system comprising one or more *Generating Units* (*National Electricity Rules*, Chapter 10 definition).

Generating Unit means the plant used in the production of electricity and all related equipment essential to its functioning as a single entity (*National Electricity Rules*, Chapter 10 definition).

Generator means a person who engages in the activity of owning, controlling or operating a *Generating System* that is connected to, or who otherwise supplies electricity to, a transmission or distribution system and who is registered by AEMO as a *Generator* under Chapter 2 of the *National Electricity Rules* (*National Electricity Rules*, Chapter 10 definition).

GOC means a Government Owned Corporation, within the meaning of the *Government Owned Corporations Act 1993* (Qld).

GOCA means the *Government Owned Corporations Act 1993* (Qld).

Grid means the physical grid of generation, transmission and distribution systems within the *NEM* which is more specifically defined by the *National Electricity Law* as the *National Electricity System*.

Hedging Contracts means financial instruments used by *Market Generators* and *Market Customers* to manage exposure to risks in the *Spot Market*.

Interconnected National Electricity System is defined by the *National Electricity Law* to mean the interconnected transmission and distribution system in Queensland and in other participating jurisdictions used to convey and control the conveyance of electricity to which are connected *Generating Systems* and other facilities, and loads settled through the wholesale exchange operated and administered by *AEMO* under the *National Electricity Law* and *National Electricity Rules*.

Interconnectors means the transmission lines by which the *QRNEM* was connected, via New South Wales, to other regions of the *NEM*, namely the Directlink (Terranora) Interconnector and the Queensland New South Wales (QNI) Interconnector.

Late Rebidding Period means the period beginning 15 minutes before the commencement of a *Trading Interval* (*National Electricity Rules*, Chapter 10 definition).

Local Retailer means, in relation to a local area, the *Customer* who is:

1. a business unit or related body corporate of the relevant local network service provider; or
2. responsible under the laws of the relevant participating jurisdiction for the supply of electricity to franchise customers in that local area; or
3. if neither 1 or 2 is applicable, such other *Customer* as *AEMO* may determine;

(*National Electricity Rules*, Chapter 10 definition).

Market Connection Point means a *Connection Point* where any load is classified as a market load or which connects any *Market Generating Unit* to the *Grid* (*National Electricity Rules*, Chapter 10 definition).

Market Customer means a *Customer* who has classified any of its loads as a market load and who is also registered by *AEMO* as a *Market Customer* under Chapter 2 of the *National Electricity Rules* (*National Electricity Rules*, Chapter 10 definition).

Market Generating Unit means a *Generating Unit* whose *Sent Out Generation* is not purchased in its entirety by the *Local Retailer* or by a *Customer* located at the same *Connection Point* (*National Electricity Rules*, rule 2.2.4(a) and Chapter 10 definition).

Market Generator means a *Generator* who has classified at least one *Generating Unit* as a *Market Generating Unit* in accordance with Chapter 2 of the *National Electricity Rules* and who is also registered by AEMO as a *Market Generator* under Chapter 2 of the *National Electricity Rules* (*National Electricity Rules*, rule 2.2.4 and Chapter 10 definition).

Market Participant means a person who is registered by AEMO as a *Market Generator*, *Market Customer*, market small generation aggregator or market network service provider under Chapter 2 of the *National Electricity Rules* (*National Electricity Rules*, Chapter 10 definition).

Maximum Available Capacity means the total *MW* capacity specified as available for dispatch in any given *Trading Interval* by a *Scheduled Generating Unit* or a *Semi-Scheduled Generating Unit* in a *Dispatch Offer* (also referred to as “MAXAVAIL” in AEMO’s Market Management System).

MW means megawatts.

Nameplate Capacity means the maximum continuous output or consumption in *MW*, as specified by the manufacturer or as subsequently modified (also referred to as “nameplate rating” in Chapter 10 of the *National Electricity Rules*).

National Electricity Law means the law set out in the Schedule to the *National Electricity (South Australia) Act 1996* (SA) and which at all material times applied (with modifications) as a law of Queensland by virtue of the *Electricity–National Scheme (Queensland) Act 1997* (Qld).

National Electricity (Queensland) Law means the version of the *National Electricity Law* that applied in Queensland at all material times.

National Energy Retail Law means the law set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* (SA) and which at all material times applied (with modifications) as a law of Queensland by virtue of the *National Energy Retail Law (Queensland) Act 2014* (Qld).

National Electricity Rules at all material times had the meaning set out in section 2 of the *National Electricity (Queensland) Law*.

National Electricity System is defined by the *National Electricity Law* to mean:

1. the generating systems and other facilities owned, controlled or operated in the participating States and Territories (Queensland, New South Wales, the Australian Capital Territory, Victoria, South Australia and Tasmania) connected to the *Interconnected National Electricity System*; and
2. the *Interconnected National Electricity System*.

NEM means the National Electricity Market, which has the meaning set out in paragraph 9(a) of the Defence.

Non-Market Generating Unit means a *Generating Unit* whose *Sent Out Generation* is purchased in its entirety by the *Local Retailer* or by a *Customer* located at the same *Connection Point* and which has been classified as such in accordance with Chapter 2 of the *National Electricity Rules* (*National Electricity Rules*, rule 2.2.5 and Chapter 10 definition).

Non-Market Generator means a *Generator* who has classified a *Generating Unit* as a *Non-Market Generating Unit* in accordance with Chapter 2 of the *National Electricity Rules* (*National Electricity Rules*, rule 2.2.5 and Chapter 10 definition).

Non-Scheduled Generating Unit means a *Generating Unit* with a nameplate rating of less than 30 MW which does not participate in the *Central Dispatch* process operated by AEMO unless AEMO considers it reasonably necessary for adequate system operation and the maintenance of power system security (*National Electricity Rules*, rules 2.2.3 and 3.8.2(e)).

Non-Scheduled Generator means a *Generator* in respect of which any *Generating Unit* is classified as a *Non-Scheduled Generating Unit* in accordance with Chapter 2 of the *National Electricity Rules* (*National Electricity Rules*, rule 2.2.3 and Chapter 10 definition).

Preliminary Dispatch Offer means any *Dispatch Offer* submitted before 12.30pm the day preceding the day to which the *Dispatch Offer* relates, up to and excluding the final *Dispatch Offer* as accepted by AEMO at 12.30pm the day preceding the day to which the *Dispatch Offer* relates, which differs from the final *Dispatch Offer*.

QRNEM means the Queensland region of the *NEM*, the boundaries of which are determined by the AEMC pursuant to the *National Electricity Rules*, defined by reference to *Connection Points* on the transmission network and not by reference to the geographical boundaries of the State of Queensland.

Ramp Rate is defined by the *National Electricity Rules* to mean the rate of change of “active power” (expressed as *MW/minute*) required for dispatch (*National Electricity Rules*, Chapter 10 definition).

Rebid means a variation to a *Dispatch Offer* made in accordance with rule 3.8.22(b) of the *National Electricity Rules*, as set out at paragraph 14(i)(ii) of the Defence.

Regional Reference Node is the point within a region at which the *Spot Price* is determined and is defined by the *National Electricity Rules* to mean a location on a transmission or distribution network to be determined for each region by the AEMC in accordance with Chapter 2A of the *National Electricity Rules* (*National Electricity Rules*, Chapter 10 definition).

Registered Participant is a person who is registered by AEMO in any one or more of the categories listed in rules 2.2 to 2.7 (*National Electricity Rules*, rule 2.2.2 and Chapter 10 definition).

Scheduled Generating Unit means a *Generating Unit* which has a nameplate rating of 30 *MW* or greater or is part of a group of *Generating Units* connected at a common *Connection Point* with a combined nameplate rating of 30 *MW* or greater, which must be operated in accordance with the *Central Dispatch* process operated by AEMO (*National Electricity Rules*, rule 2.2.2 and Chapter 10 definition).

Scheduled Generator means a *Generator* in respect of which any *Generating Unit* is classified as a *Scheduled Generating Unit* in accordance with Chapter 2 of the *National Electricity Rules* (*National Electricity Rules*, Chapter 10 definition).

Sent Out Generation means, in relation to a *Generating Unit*, the amount of electricity supplied to the transmission or distribution network at its *Connection Point* (*National Electricity Rules*, Chapter 10 definition).

Semi-Scheduled Generating Unit means a *Generating Unit* which has a nameplate rating of 30 *MW* or greater or is part of a group of *Generating Units* connected at a common *Connection Point* with a combined nameplate rating of 30 *MW* or greater, the output of which is intermittent, and which has not otherwise been classified as a *Scheduled Generating Unit* or a *Non-Scheduled Generating Unit*, which must be operated in accordance with the central dispatch process operated by AEMO (*National Electricity Rules*, rule 2.2.7 and Chapter 10 definition).

Semi-Scheduled Generator means a *Generator* in respect of which any *Generating Unit* is classified as a *Semi-Scheduled Generating Unit* in accordance with Chapter 2 of the *National Electricity Rules* (*National Electricity Rules*, Chapter 10 definition).

Spot Market means the mechanism established and operated by AEMO pursuant to rule 3.4.1 of the *National Electricity Rules* for:

1. balancing electricity supply and demand;
2. acquiring market ancillary services; and
3. setting a *Spot Price* for electricity at each *Regional Reference Node* and market *Connection Point* for each *Trading Interval* and ancillary service prices at each *Regional Reference Node* for each *Dispatch Interval*,

as set out at paragraph 10 of the Defence.

Spot Price means the price for electricity in a *Trading Interval* at a *Regional Reference Node*, being the time weighted average of the *Dispatch Prices* at the *Regional Reference Node* for each of the *Dispatch Intervals* in the *Trading Interval* (*National Electricity Rules*, rule 3.9.2(h) and Chapter 10 definition).

Trading Day means a 24-hour period commencing at 4.00am EST and finishing at 4:00am EST on the following day (*National Electricity Rules*, rule 3.4.2(c) and Chapter 10 definition).

Trading Interval means a 30-minute period of a *Trading Day* ending on the hour or the half hour and, where identified by a time, means the 30-minute period ending at that time (*National Electricity Rules*, rules 3.4.2(a) and (b) and Chapter 10 definition).