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File Title:	STILLWATER PASTORAL COMPANY PTY LTD ACN 101 400 668 v STANWELL CORPORATION LTD ACN 078 848 674 & ANOR
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A handwritten signature in blue ink, reading "Sia Lagos".

Registrar

Important Information

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Amended Reply to CSE's Amended Defence

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) and another

Respondents

This amended reply responds to the Amended Defence of the Second Respondent dated 17 March 2023 ~~31 March 2022~~ (**CSE Defence**). This reply adopts the headings (and the heading numbering) used in the CSE Defence.

~~B.~~ THE RESPONDENTS

~~1. As to paragraph 6 of the CSE Defence, the Applicant admits subparagraph (b)(ii).~~

C. THE OPERATION OF THE NATIONAL ELECTRICITY MARKET

2. As to paragraph 9 of the CSE Defence, the Applicant admits subparagraphs (b) and (c).
3. As to paragraph 10 of the CSE Defence, the Applicant admits subparagraph (a).

C2. The Spot Market

4. As to paragraph 13 of the CSE Defence, the Applicant admits the allegations therein.
5. As to paragraph 14 of the CSE Defence:

(a) as to subparagraph 14(d), the Applicant admits the allegations therein;

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[Form approved 01/08/2011]

- (b) as to subparagraph 14(e), the Applicant admits subparagraphs (e)(i) and (ii);
- (c) as to subparagraph 14(g), the Applicant admits subparagraph (i);
- (d) as to subparagraph 14(h), the Applicant admits the allegations therein and says further that:
 - (i) AEMO supplied information to Generators prior to dispatch in a given Trading Interval;
 - (ii) the information in (i) was based on aggregation and consideration of the information provided to it by market participants;
 - (iii) the information in (i) included the following information supplied at the stated times:
 - (1) as soon as possible after 12:30pm on the day before a trading day, and no later than 4:00pm on the day before the trading day, AEMO relevantly published to market participants, in half hourly resolution, and updated every half hour:
 - (A) a pre-dispatch schedule which included the information set out at Rule 3.13.4(f) for each trading interval in the period covered;
 - (B) a forecast of spot prices and ancillary service prices at each regional reference node (Rule 3.13.4(g)); and
 - (C) the expected sensitivity of the forecast spot prices to changes in the forecast load or generating unit availability (Rule 3.13.4(h));
 - (2) confidentially, to each relevant Generator, the following information relating to each generating unit was made available (Rule 3.8.20(j)):
 - (A) the scheduled times of commitment and de-commitment of individual slow-start generating units;
 - (B) scheduled half hourly loading level for each scheduled entity;

- (C) scheduled provision of ancillary services;
 - (D) scheduled constraints for the provision of ancillary services;
 - (E) scheduled constraints due to network limitations;
 - (F) unconstrained intermittent generation forecasts for each trading interval; and
 - (G) for each semi-scheduled generating unit and trading interval, whether or not a condition for setting a semi-dispatch interval applies;
- (iv) as part of the central dispatch process:
- (1) during the Conduct Period, AEMO supplied data to Generators during and after dispatch in a given Trading Interval;
 - (2) the information in (1) was based on aggregation and consideration of the information provided to it by market participants;
 - (3) the information in (1) included the following information supplied at the stated times:
 - (A) every 5 minutes, dispatch instructions to each relevant Generator for each generating unit, specifying the level of power to be supplied by the generating unit over the specified period (Rules 3.8.21, 4.9.2);
 - (B) every 5 minutes, and as soon as possible after the start of each dispatch interval:
 - (i) dispatch energy prices and ancillary service prices for each regional reference node (Rule 3.13.4(l));
 - (ii) a record of the actual generation of each scheduled generating unit, semi-scheduled generating unit and non-scheduled generating unit or non-scheduled generating system, including those units that were

not generating, and the actual load for scheduled load (Rule 3.13.4(r));

- (C) every 30 minutes, and as soon as possible after the start of the last dispatch interval in a trading interval:
 - (i) regional reference node prices (Rule 3.13.4(m)); and
 - (ii) regional aggregation of actual non-scheduled generation for each trading interval (Rule 3.13.4(x)).
- (D) as soon as possible after the end of the Trading Day, in half-hourly resolution:
 - (i) regional reference prices, ancillary service prices, regional and total interconnected system loads and energies, interregional loss factors and network constraints (Rule 3.13.4(n));
 - (ii) inter-regional flows (Rule 3.13.4(n1));
 - (iii) the final dispatch offers, dispatch bids and market ancillary service offers received as well as actual availabilities of all generating units, scheduled network services, scheduled loads and market ancillary services (Rule 3.13.4(p));
 - (iv) the dispatched generation, dispatched network service, dispatched load for each scheduled generating unit, semi-scheduled generating unit, scheduled network service and scheduled load; and the semi-scheduled dispatch cap for each semi-scheduled generating unit (Rule 3.13.4(q)); and
- (E) as soon as possible after the start of a dispatch interval, the actual generation of every scheduled and semi-scheduled generating unit and those generating units that were not generating (Rule 3.13.4(r));

(v) further by reason of:

- (1) the nature and volume of forecast, real time and outcome information published by AEMO to market participants;
- (2) the number and size of scheduled generating units controlled by CSE relative to generating units controlled by other Generators, and in the context of the limitations on the importation of electricity through interconnectors into the QRNEM; and
- (3) the predictable nature of trading in the Spot Market,

CSE (and Stanwell) were able to predict with a high degree of accuracy:

- (4) what pre-dispatch information would be for competing Generators;
- (5) the trading outcomes; and
- (6) the outcome of rebidding,

in a way that competing Generators were unable to do;

(e) as to subparagraph 14(i):

- (i) the Applicant admits subparagraph (i)(i); and
- (ii) the Applicant admits subparagraph (i)(ii), but says that CSE's ability to rebid its generation capacity was not constrained by the National Electricity Rules, including clauses 3.8.22(c)(2) and 3.8.22(ca); and

(f) as to subparagraph 14(j), the Applicant admits subparagraphs (j)(iv) ~~and (v); and~~.

~~(g) as to subparagraph 14(l), the Applicant admits subparagraph (l)(ii).~~

6. As to paragraph 16 of the CSE Defence, the Applicant:

- (a) admits that Generators in the NEM, including the QRNEM, were not paid the Spot Price "simpliciter" for electricity dispatch during a trading interval, but

- (b) says further that Generators were paid “based on” the Spot Price as pleaded, and refers to and repeats the particulars to paragraph 16 of the Second Further Amended Statement of Claim (2FASOC).

D. THE MARKET

7. As to paragraph 22 of the CSE Defence:

- (a) as to subparagraph (a), the Applicant admits the allegations therein;
- (b) as to subparagraphs (b)(i) and (ii), the Applicant admits the allegations therein, and refers to and repeats the matters pleaded in subparagraph 12(b) of the 2FASOC.

E. SUBSTANTIAL DEGREE OF POWER IN THE MARKET

7A As to paragraph 26(c) of the CSE Defence, the Applicant:

- (a) denies paragraph 26(c):
- (b) says further:
 - (i) if “design feature” as pleaded is intended to mean “intended outcome” rather than “technical possibility”, it was not a design feature of the NEM for price spikes to be procured or achieved by generators engaging Short-notice Rebidding; and
 - (ii) the intended outcome of the NEM was for Generators to have the ability to move capacity to high price bands in circumstances where that movement was justified or required by a change in the operating conditions for a Generator;
- (c) says clause 3.1.4 of the National Electricity Rules sets out several market design principles, including that Chapter 3 of the National Electricity Rules is intended to give effect to the principle of a “maximum level of market transparency in the interests of achieving a very high degree of market efficiency, including by providing accurate, reliable and timely forecast information to Market Participants, in order to allow full responses that reflect underlying conditions of supply and demand.”

Particulars

National Electricity Rules, Rule 3.1.4(a)(2) as in force from 1 July 2016

Prior to that time, during the Conduct Period, Rule 3.1.4(a)(2) stated that Chapter 3 is intended to give effect to the principle of a “maximum level of market transparency in the interests of achieving a very high degree of market efficiency.”

- (d) says further that the creation of price signals of the kind referred to in paragraph 26(c) of the CSE Defence would not occur in circumstances in which CSE (and Stanwell) engaged in the Short-notice Rebidding strategy.

Particulars

To the extent price signals of the kind referred to at 26(c) of the CSE Defence were created, they are not efficient price signals as any such signals were distorted by Stanwell and CSE’s conduct in engaging in the Short-notice Rebidding strategy.

E.2. CSE’s Power in the market

8. As to paragraph ~~26(b)~~ 35 of the CSE Defence:
- (a) the Applicant admits subparagraphs ~~(b)(i) and (ii)~~ (a)(i), (a)(ii) and (a)(iv);
 - (b) the Applicant admits subparagraphs (a)(iii)(2)–(3), but does not admit subparagraph (a)(iii)(4);
 - (c) the Applicant denies subparagraph (a)(iii)(1) and says that during the Conduct Period, CSE was the operator of Callide C on behalf of the joint venture;
 - (d) otherwise joins issue in relation to paragraph 35.

F.1 Short-notice Rebidding

8A As to paragraph 44(c) of the CSE Defence, the Applicant:

- (a) admits subparagraph (c)(i);
- (b) does not admit subparagraphs (c)(ii) and (c)(iii);
- (c) denies subparagraph (c)(iv), and says further that at all relevant times, CSE:

- (i) directly or indirectly owned or controlled the output of Callide C; and
- (ii) was responsible for the day-to-day operation of Callide C.

9. Save as aforesaid and save as to admissions contained in the CSE Defence, the Applicant joins issue with CSE upon the whole of its Defence.

Date: ~~21 June 2022~~ 28 April 2023

Signed by Valerie Blacker
Lawyer for the Applicant

This pleading was prepared by Greg Whyte, lawyer and settled by L.W.L. Armstrong KCQC and D.M. Bampton of counsel, with amendments prepared and settled by D.M. Bampton and J.R. Green of counsel.

Certificate of lawyer

I Valerie Blacker certify to the Court that, in relation to the reply filed on behalf of the Applicant, 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: ~~21 June 2022~~ 28 April 2023

Signed by Valerie Blacker
Lawyer for the Applicant