



# NEM

# Dispute Management System

DMS under NER Chapter 8

26 February, 2014

QEnergy Limited

[www.qenergy.com.au](http://www.qenergy.com.au)

# **NEM Dispute Management System**

## **Scope of DMS**

QEnergy has developed this Dispute Management System (DMS) to resolve conflicts in the National Electricity Market with the time frames prescribed by the NER. The overriding purpose of QEnergy's DMS is to ensure issues are identified early and resolved as efficiently and inexpensively as possible.

## **The DMS Contact**

The primary DMS contact within QEnergy is:

Name: Kate Farrar

Position: Managing Director

Email: [KateF@qenergy.com.au](mailto:KateF@qenergy.com.au)

Phone: (07) 333 99 500

Fax: 1300 887 162

Mobile: 0419 742 567

The alternate DMS contact within QEnergy is:

Name: Darren Busine

Position: Chief Financial Officer

Email: [dbusine@qenergy.com.au](mailto:dbusine@qenergy.com.au)

Phone: (07) 333 99 544

Fax: 1300 887 162

Mobile: 0418 737 723

Both Kate and Darren have extensive experience and a thorough understanding the National Electricity Rules and the DMS.

If you have an issue that needs to be resolved you have the option of dealing with your regular commercial contact or contacting one of the above DMS contacts at any time by calling or sending a Stage 1- DMS Referral Notice (see Appendix 1).

If you do have an issue that needs assistance to resolve, and you are contacting one of our DMS contacts it is useful if you can consider and let our DMS contact know whether:

- You have discussed this issue with the commercial contact;
- You need any relevant information to assist in resolving the dispute;

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- You think other participants are effected;
- There is any barrier to resolution.

Parties to the dispute are able to request that they wish to keep the fact of the dispute confidential. If this is the case please advise our DMS Contact prior to the DMS meeting so this request can be discussed.

## **Request for Information**

You can also use the DMS to gain access to information which is relevant to your issue by completing the request for information in the Stage 1 – DMS referral notice. Where QEnergy consider the information that has been requested is sensitive, QEnergy may require you to sign Confidentiality Agreement.

Within 5 business days of receipt of a Stage 1 – DMS referral notice including a request for information the QEnergy DMS contact will let you know when the information is to be provided and discuss any issues that may arise in providing that information.

## **General**

Our DMS contact will also make arrangements with you for a meeting to try and discuss the issue and a process for resolution within 5 business days of receipt of the Stage 1 –DMS referral notice. This meeting can take place in person, telephone or video conference.

Please be prepared to discuss with our DMS contact who you think should be at the meeting from our commercial team, from your team and from any other parties involved.

## **Preparing for the DMS meeting**

Often matters which need to be escalated to a DMS can become heated and adversarial. It is the role of the DMS contact in such situations to ensure that the meeting is constructive and we have designed a number of steps to assist in achieving this aim including:

### ***(a) The exchange of Issue Papers***

Before the meeting our DMS contact will arrange for the attendees at the meeting to exchange a short issues paper by email setting out:

- Items to be included in the meeting agenda;
- The issue or issues in dispute;
- A background to the discussions to date;
- Any suggestions for going forward.

This Issues Papers are without prejudice – they are prepared for the purpose of resolving the issue or issues in dispute.

### ***(b) Facilitation of meeting***

Our DMS contact may chair the meeting or recommend that the meeting is chaired by a neutral party where:

- The relationship between the parties is likely to or has become strained;

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- There are a number of parties involved; or
- The issue or issues are unclear or complex.

All parties to the dispute must agree to the selection of the chair from the Adviser's preferred list. All costs of engaging a neutral facilitator to chair the meeting will be shared equally by the parties.

### **Options available at the DMS meeting**

Being able to agree on a process for resolution of the issue or issues without escalation may avoid and reduce costs, delay and publicity associated with court proceedings and other determinative processes such as Stage 2 – Adviser Referral Notice. At the DMS meeting parties should discuss what process should be followed to resolve the dispute. There are three broad options:

#### ***(a) Mediation***

The role of the neutral mediator is to set up a process which enhances effective and efficient communication. This can assist the parties to resolve the dispute between themselves.

#### ***(b) Non-binding neutral expert evaluation***

The role of the neutral expert is to take submissions from each party and inform them of what is likely to occur if the matter were to be decided by an appropriate forum (the DRP, a court or other body). This can assist the parties in assessing their commercial risk and commercially resolving the matter. The parties can agree on an expert and a form of agreement, or rely on the Adviser to assist with this task.

#### ***(c) Binding expert decision***

The parties can agree to be bound by the opinion of an expert on terms suitable to them. The form of the agreement, how the process is to be run and any grounds of appeal will need to be discussed by the parties and agreed upon.

The above processes can be arranged by the QEnergy DMS contact or by the Adviser with the consent of the parties.

### **Adviser Referral Notice**

There may be some issues that cannot be resolved by the DMS.

For disputes covered by clause 8.2 of the NER any party to a dispute can make a referral to the Adviser by completing a Stage 2- Adviser Referral Notice (see Appendix 2). Once a form has been sent the Adviser can contact Kate Farrar or Darren Busine (the QEnergy DMS Contacts) with any queries or suggestions they have. For other disputes the parties will need to consider their legal and other remedies.

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### **Time periods under chapter 8 of the NER**

Chapter 8 of the NER sets out stringent time periods for the disputes covered by that chapter. While the DMS process will consider the time periods you should ensure that you check them. If you have queries about that, then this is an issue and you should discuss it with the Adviser.

## **Appendix 1**

### **Stage 1 – DMS Referral Notice [Clause 8.2.4 of the National Electricity Rules]**

You can initiate the dispute resolution process set out in Clause 8.2.4 of the National Electricity Rules (“NER”) by serving this Stage 1 – DMS Referral Notice on one or more parties to the relevant dispute.

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Details of Initiating Participant:.....

Organisation:.....

DMS Contact Name:.....

Phone:.....

Email:.....

Mobile:.....

Category of eligible person:.....

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### **Nature of the Dispute**

Tick as appropriate the type of relevant dispute between Registered Participants (as set out in Rule 8.2.1(a)):

- The application or interpretation of the NER;
- The failure of any Registered Participants to reach agreement on a matter where the NER require agreement or require the Registered Participants to negotiate in good faith with a view to reaching agreement;
- The proposed access arrangements or connection agreements of an Intending Participant or a Connection Applicant;
- The payment of moneys under or concerning any obligation under the NER;
- Any other matter relating or arising out of the NER to which a contract between two or more Registered Participants provides that the dispute resolution procedures under the NER are to apply;

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- Any other matter relating to or arising out of the NER in respect of which two or more Registered Participants have agreed in writing that this rule 8.2 should apply; or
- Any other matter that the NER provide may or must be dealt with under this clause 8.2: (specify)

.....  
.....  
\_\_\_\_\_

**Outline of dispute** (please attach relevant correspondence, copies of any agreement etc.)

A brief history of the dispute and the circumstances giving rise to it:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

(Please continue on a separate piece of paper if necessary)

Correspondence attached:                      Yes/No

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**Date of Disputed decision or the occurrence of disputed conduct:**

.....  
.....

**Period fixed by the NER for this dispute** (include time and clause number)

Time: .....

Clause:.....

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**Do you wish to keep the fact of this dispute confidential?**

Yes/No

[Please note that this indicates your preference and does not guarantee confidentiality unless agreed by the other participants in the dispute]

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**Participants to whom this notice will be sent**

	<b>Party 1</b>	<b>Party 2</b>	<b>Party 3</b>
<b>Organisation</b>			
<b>DMS contact name</b>			
<b>State</b>			
<b>Phone</b>			
<b>Email</b>			
<b>Mobile</b>			

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### **DMS Meeting**

Within 5 business days of receiving this notice each participant served must meet with the DMS contacts of any other participants served with this notice to discuss and agree on the further conduct of this matter.

Our available dates and times are indicated. Please include yours for the week of

**Initiating Participant** (Circle as appropriate)

<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
Time	Time	Time	Time	Time

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**Other Participant(s)** (Circle as appropriate)

<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>
Time	Time	Time	Time	Time

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**Request for facilitator**

(Circle as appropriate)

- Adviser.
- Other (list name, availability and proposal for payment):

Name: .....

Availability:.....

Cost:.....

Proposal for Payment:.....

- None

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**Request for information**

Please list any information that you require to prepare yourself and that your think is relevant:

<b>Material requested</b>	<b>Relevance and reason sought</b>

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## **NEM Dispute Management System**

### **Suggested agenda for DMS meeting:**

- Process for moving forward to resolution:
  - Direct discussions (what level in the organisation)
  - Mediation
  - Other
- Other parties to be served with Stage 1 – DMS Referral Notice:
  - Name/details of DMS contact
  - Other issues raised
  - Wording of letter to be sent to them
  - What level of information to send
  - Confidentiality requested/agreed
  - Is the fact that the relevant dispute exists confidential
  - Documents/information exchanged