



10 February 2006

Our Ref: 08/2006/PS/EMA/ACT/LHK
Tel: (65) 6213 8700
Fax: (65) 6213 8787
E-mail: ngpw@pseraya.com.sg

Deputy Chief Executive
Energy Market Authority
111 Somerset Road #15-05
Singapore Power Building
Singapore 238164

Dear Sir,

**COMMENTS AND FEEDBACK ON THE PROPOSED AMENDMENTS TO THE
ELECTRICITY ACT (CAP 89A)**

We refer to the consultation paper titled "Amendments to Electricity Act (Cap 89A)" dated 20 January 2006.

Please find enclosed PowerSeraya's comments and feedback on the proposed amendments to the Electricity Act in Appendix 1.

Yours faithfully,

JOHN NG-PENG WAH
SENIOR VICE PRESIDENT (RETAIL & REGULATION)
POWERSERAYA LIMITED



**POWERSERAYA'S COMMENTS AND FEEDBACK ON THE PROPOSED
AMENDMENTS TO THE ELECTRICITY ACT**

Comments and Feedback On:	
1.	<p><u>Licensing Regime</u></p> <p>No further comments.</p>
2.	<p><u>Security Safeguards</u></p> <p>No further comments.</p>
3.	<p><u>Power to Obtain Information</u></p> <p>We do not dispute with the fact that the Authority should be given the power to request for information from its licensee. However, the principle that the Authority is exempted from making payment for all information that it requires from its licensee does not seem equitable.</p> <p>The Authority should reasonably be required to pay for any document or information that it requested from the licensee should the provider of the information have to incur significant cost to provide such information to the Authority. In the absence of a cost attached to the information, there is no incentive or disincentive on the Authority to request only for the necessary information.</p> <p>Amendment to Section 5(4)(b) of the Electricity Act to extend the disclose of information to agent, consultant, committee or panel acting for or under the direction of the Minister increases the probability of commercially sensitive information being revealed to unintended parties.</p> <p>Information provider shall be informed before the disclosure of confidential information to any appointed personnel, in particularly, the consultants engaged by the Minister. All agent, consultant, committee or panel acting for or under the direction of the Minister to be bound by the Official Secrecy Act.</p>
4.	<p><u>Improvement to Penalty Structure</u></p> <p>No further comments.</p>
5.	<p><u>Ambit of Market Rules</u></p> <p>Whilst we recognise that the Government needs to have and does in fact hold control over the Electricity Act and therefore any market rules that can be derived there from, we believe that any changes to the market rules resulting from government policy changes should be dealt with through a transparent process.</p> <p>The amendment to the Act under Section 46(2) appears to bypass the current rule change procedure in the way changes would be implemented. That being the case we suggest some other procedure be referred which will ensure that participants are adequately informed in advance and have some right of appeal over government imposed rule</p>

Comments and Feedback On:	
	changes.
6.	<p><u>Revised Appeal Process</u></p> <p>The addition subsection 5A to be inserted under Section 59 of the Electricity Act would face certain restriction in its implementation.</p> <p>Section 59 of the Electricity Act refers to the appeal against decision made by the Authority that Section 50(1) or 51(1) has been infringed. The enforcement provisions are lay out under Section 59 subsection (2). Prior to the Appeal Panel decision being made, it does not seem reasonable for a person to dispose of all or any of the relevant shares or assets in the case of an agreement referred to in section 50(2)(f). There is no redress to a person once it disposes its asset and won the appeal case.</p> <p>Depending on the type of issue that a licensee is appealing against, the stipulated time of 14 days to file in an appeal by the aggrieved licensee may not be achievable. As such, we are proposing an extension of the initial notification to 30 days. Aggrieved licensees may require engaging external consultants to put up the detailed justifications for the appeal. As such, we would propose that a 6 months period cap be given for the filing in</p> <p>Section 98 subsection (1) of the Electricity Act should be amended as follows:</p> <p>“(1) An electricity licensee or other person aggrieved by any decision of the Authority in the exercise of any discretion vested in it by or under this Act may, except for section 26(1) or 31(12), appeal to the Minister, together with adequate details of the grounds of appeal, notify the Minister that he wishes to make an appeal, within 30 14 days of the receipt of a notification by the Authority of the decision. ”</p>
7.	<p><u>Terms for Generation Companies to Supply Electricity</u></p> <p>The rationale of the amendment is to provide sufficient right in the use of the Generation Licensing premises for the Transmission Licensee to comply with its license requirement, and obligation. In this respect we understand the need for the Transmission Licensee or its agent to have access to generation licensee’s facilities from time to time. We do believe, however, that said access and work execution should be limited to those parts of the facility that directly interact with the transmission system. We do not agree that the generation facilities shall be used for the purpose of developing the transmission system other than for the purpose of supporting the lifting of power from the power station.</p> <p>While it is international practice that some of the assets owned by the generation licensee such as the switchhouse can be used for the purpose of developing the Transmission System, it has to be recognized that to do so would means that such equipment should in the first place be owned by the Transmission Licensee as recommended by Temasek Holdings Consultant in their Report on “Review of Switchhouse Ownership, November 2002”. However it shall be noted that this would be in contradiction to the Authority’s previous decision that switchhouse is to be used only for the purpose of lifting power from the power station which resulted in the</p>

Comments and Feedback On:

switchhouse being retained as a generation facility.

The proposed amendment will provide the Transmission Licensee the right to use the generation asset for the purpose of developing the transmission system or effecting a connection to any person. This would be in contradiction to the Authority's previous decision. As such, in order to meet the intent of the proposed amendment, it would be a neater and more practical in the longer term to reconsider the issue of switchhouse ownership and align it with international practice as recommended in Temasek's report.

Alternatively, if there is a benefit to the SPPA to use the generation facility to support the transmission system, a provision could be made in the amendment to grant the Transmission Licensee the right to acquire the switchhouse facility at a cost to be agreed upon.

As presently worded the proposed amendment to the Act i.e. Section 31A could also be interpreted as allowing the Transmission licensee to have access to our generation facilities themselves which are clearly not the concern and not necessarily within the expertise of the Transmission Licensee to do work on. We would like the Authority to re-draft and be more explicit on the access rights of the Transmission Licensee or its agent.

Notwithstanding our comments above, it is too onerous to impose on the generation licensee a strict compliance with the terms of the notice notwithstanding any provision in any existing contract, agreement, instrument or undertaking to which the generation licensee is a party. In view that the development of the transmission system is long term in nature, requiring careful planning, Generation licensee should be given more than 14 days written notice by the licensee from the execution date and thus have sufficient time to lodge a written objection with the Authority if necessary. Prior to the inquiry, the Transmission Licensee or its agent should not be allowed to carry out its work stated in the written order.

Alternatively, upon the receipt of the written notice from the Transmission Licensee or its agent, if we are not able to comply with the request, we are willing to work with the Transmission Licensee to reschedule an appropriate time for the Transmission Licensee or its agent to carry out its work. Only in the event that no consensus could be arrived would we go down the inquiry route by the Authority.

8. Any other comments or feedback

We noted that Section 21(2) and (3) of the Electricity Act has been deleted and Section 14 of the Electricity Act has been repealed. We are not able to associate these amendments to any of the categories listed above by the Authority.

Appreciate if the Authority could provide the rationale for the amendments i.e. is it only for editorial changes.