Overview of NSW Government's approach to the coal market price emergency

Thursday, 2 March 2023

1. What powers does the NSW Government have to respond to a coal market price emergency?

Under Schedule 3 of the *Energy and Utilities Administration Act 1987* (the Act) the NSW Premier has the power to declare a coal market price emergency. Once an emergency is declared, the Minister for Energy has the power to issue directions reasonably necessary to respond to the coal market price emergency, including to impose a price cap on the sale of coal.

On 22 December 2022, the Premier declared a coal market price emergency. On 23 December 2022, the Minister issued directions to power stations and coal suppliers. On 16 February 2023, the Minister issued new directions to additional coal suppliers.

2. Who has the Minister issued directions to?

The power station directions were issued to coal fired power stations operated by AGL, Delta Electricity, EnergyAustralia and Origin Energy.

The coal mine directions were issued to mines operated by BHP, Centennial Coal, Delta Coal, Glencore, Idemitsu, New Hope, Mach Energy, Peabody, Whitehaven and Yancoal.

3. How long will the coal market price emergency and directions be in place?

Schedule 3 of the Act (relating to the coal market price emergency) is repealed on 30 June 2024, unless the emergency declaration is otherwise revoked by the Premier.

Under Schedule 3 of the Act, the Minister may revoke, amend or issue new directions. The Minister may consider this as new information is collected and circumstances change.

4. What do the directions for power stations require?

The directions require power stations to:

- plan to maintain a stockpile of coal that is more than expected demand for the next 30 days
- provide information to coal suppliers about reasonable terms for coal supply agreements
- not resell or offer to resell coal.

5. What do the directions for coal mines require?

The directions for coal mines require coal suppliers to:

- sell coal to power stations at or below AU$125 per tonne, unless a higher price is approved
- accept offers to supply coal to a coal fired power station if made on reasonable terms
- reserve a proportion of future coal production to supply NSW coal fired power stations
- prioritise the delivery of coal to coal fired power stations with low stockpile levels.

6. What is the coal price cap?

Unless otherwise specified at Schedule 1 of the coal mine directions, the price cap is set at AU$125 per metric tonne of thermal coal at a benchmark specific energy of 5,500 kilocalorie per kilogram on a net as received basis. It is aligned with the High Ash Australia specifications set by globalCOAL.

The price cap applies to thermal coal at the point it is delivered to a power station, including transport costs.

7. Which coal supply agreements are covered?

The price cap applies to all new thermal coal supply agreements, where the thermal coal meets the specifications for use in NSW power stations.

The directions do not impact **existing** coal supply agreements or apply to agreements for **metallurgical coal.**

8. How does the direction for coal mines to reserve coal work?

Coal suppliers are required to make coal available for power stations for each of the 5 quarterly periods starting from 1 April 2023 and ending on 30 June 2024.

This coal can be made available for both new and pre-existing coal supply agreements with power stations. If the coal supplier has existing coal supply agreements with power stations at a volume equivalent to the reserve amount, then no further action is needed.

If the coal supplier has not received offers from a power station to buy the reserved coal within 60 days of the start of a quarter, the coal supplier is free to sell the reserved coal to other buyers. The intent is for the reserve amount to follow production so that site issues (e.g. maintenance, outages) do not create difficulties in complying with the direction.

This reserve is capped to the extent the coal supplier has pre-existing agreements to sell coal to other buyers. The intent is to avoid the coal supplier breaching its pre-existing agreements.

The reserve is also capped at a maximum amount of coal. The intent is to enable the coal supplier to sell incremental production above historical levels to other buyers (i.e. export market).

9. What about coal mines with production costs above the price cap?

Coal suppliers who demonstrate their costs of production plus a fair margin exceeds the AU$125 per tonne, can apply to the Minister to consider a different price cap.

The Australian Energy Regulator will assess evidence provided and advise the Minister on whether a different price than the cap may be appropriate.

The Australian Energy Regulator will issue guidelines to coal suppliers on the scope of costs it will consider and what information is required. The scope of costs could include production costs (e.g. labour, equipment and maintenance, fuel, explosives), royalties, a reasonable profit margin, and transportation costs.

10. What about coal purchased by power stations at higher prices?

Power stations that have coal supply agreements above the price cap may apply for financial support from the NSW Government. This includes new coal supply agreements which have a higher price on the basis of an assessment of production costs by the Australian Energy Regulator.

The Office of Energy and Climate Change will assess each application and if the power station is successful, provide a financial support agreement to the relevant power station setting out information requirements and the conditions for payment of the financial assistance.