

MinterEllison

29 July 2019

BY EMAIL

Mr Darrell Channing
Director – Adjudication
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

Dear Darrell

Authorisation AA1000445 submitted by Australian Energy Market Operator Limited – interested party submissions

We refer to the letter from your office dated 17 July 2019 advising that two submissions were received from interested parties in respect of Authorisation AA1000445 and inviting Australian Energy Market Operator Limited (**AEMO**) to respond to the submissions received.

We act for AEMO in relation to Authorisation AA1000445 and set out below AEMO's response to the two submissions received from Alinta Energy and Simply Energy.

AEMO notes that both submissions express support for Authorisation AA1000445 and that no submissions were received from interested parties objecting to Authorisation AA1000445.

Simply Energy's submission raises several other aspects of the Retail Market Procedures (WA) that do not necessarily relate to Authorisation AA1000445. AEMO considers that many of the matters raised in Simply Energy's submission would be more appropriately addressed in a procedure change request. Chapter 9 of the Retail Market Procedures contains the procedure change process and allows any participant to submit a procedure change request to amend the Retail Market Procedures. Simply Energy may submit a procedure change request at any time if it considers that specific clauses in the Retail Market Procedures could be improved. The procedure change process ensures that all market participants and interested persons are consulted on changes to the Retail Market Procedures and that the changes are consistent with the objectives of the market as outlined in clause 378 of the Retail Market Procedures.

AEMO does not agree with Simply Energy's view that modifying clauses in Chapter 6 of the Retail Market Procedures addressing compliance and interpretation, so as to align them with other markets, would materially benefit the WA market. AEMO has no current plans to propose significant changes to Chapter 6 of the Retail Market Procedures and considers that clauses 328A to 330 have proven to be a cost-effective and transparent mechanism for determining whether an alleged breach of the Retail Market Procedures is material.

AEMO notes Simply Energy's comments in relation to a competitor's ability to potentially influence the nature and impact of enforcement which could result in a significant volume and consequential financial impact on the affected party. While this is theoretically possible, a right of appeal exists under clause 332(b) of the Retail Market Procedures and the independent compliance panel will make the final determination in relation to any financial penalty.

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Simply Energy's submission also addressed negative assurance audit requirements which are contained in Chapter 7 of the Retail Market Procedures. Chapter 7 of the Retail Market Procedures is not authorised and AEMO is not seeking authorisation in relation to any provisions it contains.

If you have any questions in relation to this response or require anything further please contact Matthew Knox or Lauren Zambotti.

Yours faithfully
MinterEllison

A handwritten signature in blue ink, appearing to read 'Lauren Zambotti', with a long horizontal flourish extending to the right.

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