

From: Elizabeth Emmett
To: [Wu, Connie](#); [Waters, Jessica \(AU\)](#)
Cc: [Ahuja, Vishal \(AU\)](#); [Kathryn Finlayson](#); [Channing, Darrell](#); [McCracken-Hewson, Daniel](#); [Mark Carkeet](#)
Subject: RE: Request for clarification - Application for re-authorisation lodged by Stanwell Corporation Limited and Diamantina Power Station Pty Ltd [SEC=UNCLASSIFIED] [ME-ME.FID5206132]
Date: Monday, 16 December 2019 5:11:48 PM

Dear Connie

Stanwell confirms that it would like to include section 45 of the *Competition and Consumer Act 2010* (in its current form) in section 4.3 of the application, and would also like to seek an interim authorisation.

Kind regards

Liz

Elizabeth Emmett
Associate
T +

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From: Wu, Connie
Sent: Friday 13 December 2019 09:03 AM
To: Waters, Jessica (AU)
Cc: Ahuja, Vishal (AU); Kathryn Finlayson; Channing, Darrell; McCracken-Hewson, Daniel
Subject: RE: Request for clarification - Application for re-authorisation lodged by Stanwell Corporation Limited and Diamantina Power Station Pty Ltd [SEC=UNCLASSIFIED]

Dear Jessica

Thank you for your email and clarification on behalf of DPS.

We are progressing with our assessment of the application. As shown in the indicative timeline on our public register, we may be issuing a draft determination in relation to the application in December. We will keep you updated on progress, and if there is any change to that timeline, we will let you know.

Kathryn, would be grateful if you could please let me know Stanwell's response to my questions.

Many thanks.

Kind regards
Connie

Connie Wu

Assistant Director | Adjudication | Merger & Authorisation Review

Australian Competition & Consumer Commission

Level 5 | 1 William Street Perth 6000 | www.accc.gov.au

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The ACCC acknowledges the traditional custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

From: Waters, Jessica (AU)

Sent: Thursday, 12 December 2019 6:25 PM

To: Wu, Connie

Cc: Ahuja, Vishal (AU); Channing, Darrell; McCracken-Hewson, Daniel

Subject: Re: Request for clarification - Application for re-authorisation lodged by Stanwell Corporation Limited and Diamantina Power Station Pty Ltd [SEC=UNCLASSIFIED]

Dear Connie

Thank you for seeking that clarification. DPS confirms that it would like to include s45 of the CCA (in its current form) in section 4.3 and also to seek interim authorisation.

We would also be grateful if you provide an indication of what the ACCC's expected timing and the process will involve to reach interim and final determination.

Please let us know if we can be of any assistance in that process.

Thanks and kind regards
Jessica

On 12 Dec 2019, at 6:55 pm, Wu, Connie wrote:

Dear Jessica and Kathryn,

We are writing to you in relation to the [application](#) for re-authorisation lodged by Stanwell Corporation Limited and Diamantina Power Station Pty Ltd (the **Applicants**) on 4 October 2019.

Section 4.3 of the application states that re-authorisation is sought in relation to the following provisions of the CCA: Cartel conduct (Division 1 of Part IV), specifically sections 45AD(3)(a)(i), 45AD(3)(a)(ii), 45AD(3)(a)(iii), 45AF, 45AG, 45AJ, and 45AK.

We note that the [existing authorisations](#) (A91448 and A91449) were granted in relation to conduct that may constitute a cartel provision and/or

an exclusionary provision within the meaning of s45 of the CCA (pre-Harper version), and conduct which may have the purpose or effect of *substantially lessening competition* within the meaning of s45 (pre-Harper).

In relation to the current application, could you please clarify whether the Applicants wish to include s45 of the CCA (in its current form) in section 4.3 (i.e. provisions for which re-authorisation is sought)?

Also, given the existing authorisation will expire on 20 February 2020, do the applicants wish to seek an interim authorisation?

If you could please respond to the above two questions **as soon as possible**, that would be greatly appreciated.

Kind regards
Connie

Connie Wu

Assistant Director | Adjudication | Merger & Authorisation Review

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