



Our ref: AA1000618  
Contact officer: Gemma Smith  
Contact phone: (03) 9290 1405

23 Marcus Clarke Street  
Canberra ACT 2601  
GPO Box 3131  
Canberra ACT 2601  
tel: (02) 6243 1111

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exemptions@acc.gov.au  
www.acc.gov.au

Dear Madam/Sir

## **Australian Energy Market Operator Limited - application for authorisation AA1000618 – interim authorisation decision and interested party consultation**

On 29 June 2022, the Australian Competition and Consumer Commission (the **ACCC**) received an application for authorisation from the Australian Energy Market Operator Limited (**AEMO**) on behalf of itself and energy industry participants.

In response to an urgent request, the ACCC has granted interim authorisation to enable AEMO and energy industry participants to coordinate maintenance and share information for the purpose of ensuring the safe, secure and reliable operation of energy systems.

This letter invites your views on two main issues:

1. First, any views you have on the interim authorisation, including whether the Authorised Conduct should be further narrowed and/or your experience of the impact of that conduct over the coming weeks.
2. Second, any comments on the likely public benefits and detriments of the proposed conduct, including reference to your experience under the authorisations enabling similar conduct to respond to issues arising from COVID-19 (AA1000484 and AA1000586), and whether the conditions in the interim authorisation are appropriate or if any further conditions should be placed on any authorisation granted.

We are interested in hearing from you at any time during the ACCC's assessment process in relation to point 1. In relation to point 2, we request submissions by **Wednesday, 20 July 2022**.

### **Application for authorisation**

AEMO is seeking authorisation for itself and energy industry participants (both gas and electricity) to enter into arrangements for certain maintenance coordination and information sharing for the purpose of ensuring the safe, secure and reliable operation of energy systems for the benefit of both competition and consumers, in the context of current market conditions (including impacts from the Russian invasion of Ukraine, extreme or unusual weather events or conditions, higher than usual planned outages, and the ongoing impacts of the COVID-19 pandemic).

AEMO is seeking authorisation until 31 March 2023.

AEMO has previously been authorised in relation to similar cooperative arrangements in 2020 (AA1000484) and earlier in 2022 (AA1000586) (and in respect of the latter, still has authorisation), but these authorisations were for the sole purpose of responding to issues arising from the COVID-19 pandemic.

A full copy of the application for authorisation is available on the ACCC's [authorisations public register](#).

### **The authorisation process**

Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (Cth).

Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

### **Interim authorisation**

On 1 July 2022, the ACCC granted interim authorisation to enable AEMO and current and future energy industry participants to engage in conduct substantially similar the Proposed Conduct.

Interim authorisation commences immediately and is subject to conditions which impose a range of reporting and transparency obligations on AEMO, and require that agreements do not extend beyond any authorisation period.

The ACCC will review the scope of the Authorised Conduct as its assessment continues, including based on submissions from interested parties. The ACCC will be working to narrow the scope of the conduct to only that which is reasonably necessary.

A copy of the ACCC's interim authorisation decision is attached.

The ACCC did not conduct a public consultation process in respect of the request for interim authorisation in light of the urgent need for AEMO to take steps to ensure the safe, secure, and reliable operation of Australia's energy systems.

### **Making a submission**

The ACCC invites you to make a submission on the application for authorisation. In making your submission, please provide information, evidence and views about the likely public benefits, effects on competition and any other public detriment that you consider will result from the proposed conduct.

If you intend to provide a submission, please do so by **Wednesday, 20 July 2022**. Submissions should be emailed to [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au) with the subject 'AA1000618 – AEMO – submission'. If you wish to request an extension, please contact us on the details below as early as possible. Submissions after the due date (or after any extension granted) may not be taken into account.

Your submission **will** be placed on the ACCC's [authorisations public register on the internet](#) unless you have made a request (with reasons) for us to exclude part or all of the submission from the public register. (see [Guidelines for Excluding Information from the Public Register for more information on how to make a request and how we assess requests](#)).

You can forward this letter to any other party who may wish to make a submission to the ACCC regarding the application.

## Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information, and an up to date version (including any changes) will be posted on the public register.

Indicative date	Stage in assessment process
29 June 2022	Lodgement of application and supporting submission.
1 July 2022	ACCC decision regarding interim authorisation
1 July 2022	Public consultation process begins.
20 July 2022	Closing date for submissions from interested parties.
3 August 2022	Applicant responds to issues raised in the public consultation process.
August 2022	Draft determination.
August/September 2022	Public consultation on draft determination including any conference if called.
October/November 2022	Final determination.

This letter has been placed on the ACCC's public register. If you have any questions or wish to discuss any aspect of this matter, please do not hesitate to contact Gemma Smith on (03) 9290 1405 or [exemptions@accc.gov.au](mailto:exemptions@accc.gov.au).

Yours sincerely



David Hatfield  
Director  
Competition Exemptions