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Dear Interested Party

Australian Energy Market Operator application for authorisation AA1000484— interim authorisation decision and interested party consultation

On 30 March 2020 the Australian Competition and Consumer Commission (the **ACCC**) received an application for authorisation from the Australian Energy Market Operator (**AEMO**) on behalf of itself and electricity and gas market participants. The ACCC has granted interim authorisation for a subset of AEMO's proposed conduct.

This letter invites your views on two main issues:

1. Firstly, if you have been directly impacted by the conduct under the interim authorisation granted by the ACCC on 3 April 2020 or 17 April 2020, what is your experience to date.
2. Secondly, do you have any comments on the likely public benefits and detriments of the proposed conduct, how the ACCC should determine the appropriate time period for the authorisation, and whether the conditions in the interim authorisation are appropriate or if any further conditions should be placed on the authorisation.

We are interested in hearing from you at any time during the ACCC's assessment process in relation to point 1 and are interested in hearing how you are being impacted as soon as possible. We request submissions in relation to point 2 by Wednesday 20 May 2020.

We recognise that the COVID-19 situation may be causing disruptions to your normal operations. For this reason, we are taking a flexible approach to receiving feedback on the conduct. You may wish to contact us by phone to discuss your views or submission before the deadline.

The application for authorisation

Under the application for authorisation, as amended on 17 April 2020, AEMO and industry participants seek authorisation to discuss, enter into or give effect to any contract, arrangement or understanding between them, or engage in any conduct, which has the purpose of:

1. ensuring the safe, secure and/or reliable operation of Australia's energy systems and/or the continued operation and integrity of the wholesale markets that underpin energy supply during the pandemic;
2. ensuring ongoing energy supply to support consumers, businesses, government operations and the economy during the pandemic;
3. minimising the risk of any energy outages during the pandemic;

4. ensuring that there are sufficient resources to maintain and operate energy infrastructure, including personnel and essential inputs such as fuel, parts and equipment; or
 5. planning or preparing for the impacts of the pandemic in relation to any of the above
- (the **Proposed Conduct**).

AEMO states that:

1. the Proposed Conduct would be limited to:
 - a) discussions, conduct, contracts, arrangements and/or understandings to which AEMO, the independent market operator, is either a party or has facilitated; or
 - b) discussions, conduct, contracts, arrangements and/or understandings to which AEMO is not a party but which are carried out for the purposes of implementing (i) above;
2. the Proposed Conduct is intended to ensure the ongoing safety, security and reliability of Australian energy systems and the integrity of wholesale markets during the pandemic. It does not involve entering into any contracts, arrangements or understandings regarding the wholesale or retail price of energy, or the supply or acquisition of gas. Nor is it intended that AEMO and industry participants would share confidential information relating to retail pricing matters, cost or profits;
3. the Proposed Conduct is not compulsory, and industry participants can opt out of any proposed collaboration the subject of this application.

AEMO's 30 March 2020 application for authorisation and email of 17 April 2020, amending the proposed conduct, are available on the [ACCC's public register](#).

Interim authorisation decisions

On 3 April 2020 the ACCC granted interim authorisation to enable AEMO and gas and electricity industry participants to engage in specific co-operative measures to ensure secure and reliable energy supply and integrity of wholesale markets during the COVID-19 pandemic. This interim authorisation was revoked and a new interim authorisation issued on 17 April 2020, which allows AEMO and industry participants to engage in a wider range of conduct (compared to the 3 April interim authorisation), but does not permit sharing information and/or entering into arrangements concerning gas availability.

Both interim authorisations are subject to a reporting obligation, a requirement that industry participants continue to comply with conditions imposed in other relevant authorisations, and a constraint on the length of time that agreements made under the authorisation can remain in place.

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 and/or the continued operation and integrity of the wholesale markets that underpin energy supply during the COVID-19 pandemic.

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

In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefit and detriment likely to arise as a result of the proposed conduct.

Request for submissions

The ACCC is now conducting a public consultation process on its interim authorisation decision and the substantive application, and invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements. The ACCC is also particularly interested in understanding how the proposed conduct affects smaller participants in the market, and seeks input from these stakeholders.

If you intend to provide a submission in relation to the ACCC's interim authorisation decision, please provide any comments as soon as possible. Submissions in relation to AEMO's application should be provided by **20 May 2020**. Submissions should be emailed to adjudication@acc.gov.au with the subject 'AEMO authorisation - AA1000484'.

Alternatively, if you would like to provide comments orally, please contact Robert Janissen on 02 6243 1387 to organise a suitable time.

Submissions, including a record of oral submissions, will be placed on the [ACCC's public register](#) subject to any request for exclusion (see the [ACCC guidelines](#) for more information).

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the application at the draft and final determination stages. If you are able to please provide a nominated contact email address for future correspondence.

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

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Robert Janissen on 02 6243 1387 or adjudication@acc.gov.au.

Timetable

The ACCC is now conducting a public consultation process on its interim authorisation

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information.

30 March 2020	Lodgement of application, including request for interim authorisation
3 April 2020	Interim authorisation decision
17 April 2020	3 April 2020 interim authorisation revoked, new interim authorisation decision issued
22 April 2020	Public consultation process begins
20 May 2020	Closing date for submissions
June 2020	Applicant responds to issues raised in the public consultation process
July 2020	Draft determination
July 2020	Public consultation on draft determination

September 2020 Final determination

Yours sincerely

A handwritten signature in black ink, appearing to read "M Drake". The letters are cursive and somewhat stylized, with the "M" and "D" being the most prominent features.

Michael Drake
Director
Adjudication