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Dear Interested Party

Request for submissions: Clean Energy Fuels Australia's proposed acquisition of EVOL LNG

The Australian Competition and Consumer Commission (**ACCC**) is seeking your views on the proposed acquisition of Wesfarmers LNG Pty Ltd (trading as **EVOL LNG**) by Clean Energy Fuels Australia (**CEFA**) (the **proposed acquisition**). CEFA and EVOL both distribute liquefied natural gas (**LNG**) to customers requiring remote energy generation in Western Australia.

CEFA distributes LNG from its Mid-West LNG processing plant, located near Mount Magnet. EVOL LNG distributes LNG produced at Wesfarmers' Kwinana processing facility. While the Kwinana processing plant will not form part of the proposed acquisition, pursuant to a separate long-term tolling agreement, which will be entered into simultaneously with the proposed acquisition, CEFA will have exclusive rights for the duration of the agreement to deliver and process natural gas into LNG at the Kwinana processing facility. Further details are provided at **Attachment A**.

The ACCC's investigations are focused on the impact on competition. In particular, we are seeking your views on:

- how closely CEFA and EVOL LNG compete in the supply of LNG to customers requiring remote energy generation in Western Australia, and the availability of alternative providers of LNG
- the extent to which alternative hydrocarbons (such as diesel) are alternatives to LNG for customers requiring remote energy generation in Western Australia and any scenarios where customers switch between LNG and diesel during the life of a project
- the degree of bargaining power customers requiring remote energy generation hold in relation to suppliers of LNG for remote energy generation, and
- the extent to which the tolling agreement giving CEFA exclusive rights to output from Wesfarmers' Kwinana processing facility is likely to impact on the ability of alternative providers of LNG to compete with CEFA.

Further issues you may wish to address are set out in **Attachment B**.

This matter is public, and you can forward this letter to anybody who may be interested.

The legal test which the ACCC applies in considering the proposed acquisition is in section 50 of the *Competition and Consumer Act 2010*. Section 50 prohibits acquisitions that are likely to have the effect of substantially lessening competition in a market.

Please provide your response by **8 August 2024** via email to mergers@acc.gov.au with the title: *Submission re: CEFA – EVOL LNG*. If you require more time to respond, please let us know.

If you would like to arrange a time to discuss the matter with ACCC officers, or have any questions about this letter, please contact mergers@acc.gov.au.

Updates regarding the ACCC's investigation will be available on the ACCC's Public Mergers Register at ([ACCC mergers register](#)).

Confidentiality of submissions

The ACCC treats sensitive information it receives during a merger review as confidential and will not publish your submission. We will not disclose submissions to third parties (except our advisors/consultants) unless compelled by law (for example, under freedom of information legislation or during court proceedings) or in accordance with s155AAA of the Competition and Consumer Act 2010. Where the ACCC is required to disclose confidential information, we will notify you in advance where possible so that you have an opportunity to be heard. Therefore please clearly indicate if any information you provide is confidential.

Our [Informal Merger Review Process Guidelines](#) contain more information on confidentiality.

Yours sincerely



Morag Bond
General Manager
Merger Investigations

Attachment A

Proposed acquisition

CEFA proposes to acquire 100% of the issued share capital in EVOL LNG. The proposed acquisition includes the entire EVOL LNG business, including customer contracts and associated assets.

The proposed acquisition does not include other businesses operated by Wesfarmers' Chemicals, Energy & Fertilisers division. However, pursuant to a separate long-term tolling arrangement, which will be entered into simultaneously with the proposed acquisition, CEFA will have exclusive rights for the duration of the agreement to deliver and process natural gas into LNG at Wesfarmers Kwinana processing facility.

The acquirer – CEFA

CEFA is a producer and distributor of LNG used for energy generation at remote mining operations and communities in Australia, including mining operations in Western Australia. CEFA operates the Mid-West LNG processing plant, near Mount Magnet, Western Australia, which has a current production capacity of 247 tonnes of LNG per day. CEFA distributes LNG by road tankers from the Mid-West LNG processing plant to satellite facilities at mines and remote communities across WA.

CEFA also has a 50% interest in the Mid-West Pipeline, through an unincorporated joint venture with Horizon Power. The Mid-West pipeline is a 353km transmission pipeline that transports gas from the Dampier to Bunbury Natural Gas Pipeline and is utilised to transport gas to CEFA's Mid-West LNG processing plant.

In addition to its interests in LNG, CEFA operates PWR Hybrid which is a thermal and renewable energy company focussed on providing alternative energy generation solutions to mining and resource projects in Australia.

CEFA is ultimately owned by Australian Midstream Investments Pte Ltd, which is indirectly owned by ISQ Global Infrastructure Fund II, a private equity fund which is managed and advised by I Squared Capital Advisors (US) LLC.

The target – EVOL LNG

EVOL LNG is Wesfarmers' LNG distribution business, that lifts and transports LNG via road tankers to remote customers.

EVOL LNG is a wholly owned subsidiary of Wesfarmers Kleenheat Gas Pty Ltd, which is part of the Wesfarmers Chemicals, Energy & Fertilisers division of Wesfarmers Limited. Wesfarmers owns and operates the Kwinana LNG processing facility, which has a production capacity of 250 tonnes of LNG per day. The Kwinana processing facility will not form part of the proposed acquisition however, a separate tolling agreement will be entered into to allow CEFA to deliver and process natural gas into LNG at this facility.

LNG for remote energy generation

Mining operations and remote communities that are not covered by existing electricity supply networks must generate their own electricity to meet their power needs.

LNG is used for remote energy generation in Western Australia. The LNG is distributed by

road tanker, and regasified upon delivery. Natural gas is then used to power gas turbines or reciprocating gas engines that generate electricity.

Attachment B

1. Provide a brief description of your business or organisation.
2. Outline the reasons for your interest in the proposed acquisition, including any commercial relationship/s with CEFA and/or EVOL LNG.

The questions below are divided into questions for customers and alternative providers of hydrocarbons for remote energy generation, but you are welcome to comment on any question/s in any category.

Questions for customers

3. Outline your organisation's requirements for remote energy generation, including details of the location/s that you require remote energy generation and the energy requirements of each location.
4. Describe which sources of remote energy generation were considered appropriate for each location and the decision making process undertaken to determine the energy source used.
5. Explain the extent to which renewable energy sources can be used as an alternative to hydrocarbons for remote energy generation.
6. Describe how you procure hydrocarbons for remote energy generation, for example through formal tender or other methods, including typical contract duration.
7. Describe your ability to switch between suppliers of hydrocarbons for remote energy generation, including any ability to switch during the life of a project, and in particular, the feasibility of switching from LNG to an alternative fuel such as diesel. Consider factors such as time, sunk costs and cost recovery, or any exclusive or long-term contractual arrangements.
8. Provide detail of any backup energy generation systems you use, their capacity, and whether these systems would make it easier to switch to an alternative fuel source.
9. Explain whether you would have the ability to self-supply hydrocarbons for remote energy generation.

Questions for alternative providers of fuel for remote energy generation

10. Please identify what energy sources you provide for remote energy generation in Western Australia, your capacity and capability to transport energy to geographic areas in Western Australia. If relevant, provide a breakdown of capacity at each processing facility you use.
11. Identify and describe your competitors in the supply of energy sources for remote energy generation in Western Australia and the geographic areas in which these providers operate. Please provide market shares where possible, and the basis for such shares.
12. Explain the basis on which you compete for the supply of fuels for remote energy generation (for example price, locations serviced and capacity) in Western Australia.
13. From your perspective, what are the key factors considered by customers requiring remote energy generation in selecting an appropriate energy generation

source and provider.

14. From your perspective, describe the likelihood of new entry or expansion in the supply of LNG for remote energy generation in Western Australia.
15. Explain the degree of bargaining power held by customers requiring remote energy generation, including whether customers may tender for multiple locations at the same time to access volume discounts. Are customers able to sponsor new entry in the supply of fuel sources?
16. Explain whether the tolling agreement giving CEFA exclusive rights to output from Wesfarmers' Kwinana processing facility is likely to impact on the ability of alternative providers of LNG to compete with CEFA.

Additional information and competition issues

17. Describe whether and to what extent competing providers of energy for remote energy generation would, post acquisition, constrain CEFA from increasing prices and/or decreasing service levels for the supply of LNG to customers requiring remote energy generation, including the impact of factors such as:
 - a. locations serviced by alternative providers
 - b. capacity of alternative providers, and
 - c. substitutability and switching costs associated with changing from LNG to an alternative form of hydrocarbon for remote energy generation purposes.
18. Provide any additional information or comments that you consider relevant to the ACCC's consideration of the proposed acquisition.