



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2005/1802
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Mr Steve Payne
General Manager
Minerals and Fuels Branch, Resources Division
Department of Industry, Tourism and Resources
GPO Box 9839
CANBERRA ACT 3001

By facsimile: (02) 6213 7970

Dear Mr Payne

Application for authorisation (A90990) lodged by Woodside Energy, Benaris International and CalEnergy Gas (Australia) - request for interim authorisation

The Australian Competition and Consumer Commission (the ACCC) has considered the request for interim authorisation in relation to the above mentioned application for authorisation lodged on 28 October 2005.

Interim authorisation allows the applicants to engage in the conduct prior to the ACCC considering the substantive merits of the application.

Woodside Energy Ltd, Benaris International Pty Ltd and CalEnergy Gas (Australia) Ltd (hereafter referred to as the 'applicants') are seeking authorisation for three years to:

- negotiate and establish the common terms and conditions (including price) upon which LPG produced in the Otway Gas Project in Victoria will be offered for sale
- jointly market and sell that LPG to a common customer or customers in Victoria.

Based on the information provided by the applicants and submissions received from interested parties, the ACCC has decided to grant interim authorisation to the applicants to commence contract negotiations and the marketing and sale of LPG to be produced and delivered by the Otway Project in May/June 2006 up until December 2006.



Summary of ACCC considerations

In deciding to grant this interim authorisation, the ACCC took into account the following:

- on the basis of information currently available, the proposal is unlikely to have an anti-competitive effect in the relevant market(s) and in particular is unlikely to affect the market price for the supply of LPG having regard to:
 - the small shares of the minority joint marketing participants
 - the separate marketing of the remaining significant participant in the Otway joint venture project (Origin Energy)
 - the small market share of LPG produced from the Otway Project and the resulting competitive constraint provided by other producers from other fields
 - the short term and temporary nature of the contracts to be jointly negotiated
- there is a degree of urgency having regard to industry practice of negotiations in November and December
- the market could return to its pre-interim authorisation state should final authorisation be denied noting the short term and temporary nature of the contracts to be jointly negotiated and having regard to the simple structure of the joint marketing arrangements.

Please be advised that the ACCC's decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted by the ACCC.

Next steps

The ACCC will continue to consult with interested parties to inform its consideration of the substantive application for authorisation. The closing date for submissions is Monday, 5 December 2005.

The ACCC will then release a draft determination which will take account of any submissions from the applicants and interested parties and will indicate the ACCC's preliminary views on the merits of the application. The ACCC will provide both the applicants and interested parties with the opportunity to provide a further submission on the draft determination before the ACCC issues its final decision.

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 Ms Jaime Norton on (03) 9290 1885 or by email at jaime.norton@acc.gov.au.

Yours sincerely



Scott Gregson
General Manager
Adjudication Branch