



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2008/1525
Contact Officer: Kristy Randall
Contact Number: (02) 6243 1061

2 October 2008

Mr Peter James
Partner
Allens Arthur Robinson
Level 31, Riverside Centre
123 Eagle Street
Brisbane QLD 4000

Dear Mr James

Third line forcing notification N93585 lodged by ENERGEX Limited

I refer to the above third line forcing notification which was deemed to be lodged with the Australian Competition and Consumer Commission (the ACCC) on 16 September 2008 following the provision of additional information about the conduct on that date.

The ACCC understands the notified conduct to be as follows:

- a) *ENERGEX proposes to supply a certificate for Electricity Supply and the opportunity for a subdivision developer to supply a new subdivision network to ENERGEX on condition that the subdivision developer:*
- (i) *uses engineering consulting services in relation to the Subdivision Network of a person who has been pre-qualified by ENERGEX as having appropriate skill and experience in relation to such services;*
 - (ii) *uses construction services in relation to the Subdivision Network of a person who has been pre-qualified by ENERGEX as having appropriate skill and experience in relation to such services; and*
 - (iii) *uses goods in the Subdivision Networks from suppliers who have been pre-qualified by ENERGEX as supplying goods of an appropriate standard and which are compatible with ENERGEX's network, spares pool and ENERGEX's own maintenance practices and expertise.*

b) *ENERGEX proposes to supply the opportunity for public bodies or developers of public lighting to supply new public lighting to ENERGEX on condition that the public bodies or developers:*

- (i) use engineering consulting services in relation to public lighting of a person who has been pre-qualified by ENERGEX as having appropriate skill and experience in relation to such services;*
- (ii) use construction services in relation to public lighting of a person who has been pre-qualified by ENERGEX as having appropriate skill and experience in relation to such services; and*
- (iii) use goods in public lighting from suppliers who has been pre-qualified by ENERGEX as supplying goods of an appropriate standard and which are compatible with ENERGEX's network, spares pool and ENERGEX's own maintenance practices and expertise.*

ENERGEX proposes to refuse to supply a certificate of Electricity Supply and the opportunity for a subdivision developer to supply a new subdivision network to ENERGEX for the reason that the subdivision developer doesn't comply with conditions (a)(i) to (iii) above.

ENERGEX proposes to refuse to supply the opportunity for public bodies or developers of public lighting to supply new public lighting to ENERGEX for the reason that the public bodies or developers don't comply with conditions (b)(i) to (iii) above.

Legal immunity conferred by the notification commenced on 30 September 2008.

On the basis of the information that you have provided, it is not intended that further action be taken in this matter at this stage.

As with any notification, please note that the ACCC may act to remove the immunity afforded by the notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

A copy of this letter, the notification and the email of 16 September 2008 from Rebecca Cope, have been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Kristy Randall on (02) 6243 1061.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch