



**Retail Energy Market Company Ltd  
- Applications for authorisation  
A91136, A91137 and A91138  
- Request for interim authorisation**

**REASONS**

**DECISION**

The Australian Competition and Consumer Commission (the ACCC) has decided to grant interim authorisation with respect to applications for authorisation A91136, A91137 and A91138 lodged by the Retail Energy Market Company Ltd (REMCo) on 1 May 2009.

**THE APPLICATION**

The applicant is seeking authorisation to operate under the Retail Market Rules (RMR) in South Australia and Western Australia, which give effect to swing service provisions and an independent panel who is capable of imposing penalties for non-compliance with the RMR.

The authorisation currently governing these arrangements will expire on 31 May 2009.

Further information regarding the application is available on the ACCC's public register at [www.accc.gov.au](http://www.accc.gov.au).

**THE AUTHORISATION PROCESS**

The ACCC can grant immunity from the application of the competition provisions of the *Trade Practices Act 1974* (the Act) if it is satisfied that the benefit to the public from the conduct outweighs any public detriment. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

## **INTERIM AUTHORISATION**

Section 91 of the Act allows the ACCC to grant interim authorisation without making a decision on the merits of the application.

The ACCC will only grant interim authorisation in appropriate circumstances. In many circumstances it is not appropriate to do so because interim authorisation allows an applicant, for a limited period, to engage in conduct before the ACCC has been able to fully assess whether the conduct satisfies the authorisation test.

## **CONSULTATION**

Upon receipt of the application for authorisation on 1 May 2009, the ACCC undertook interested party consultation in order to consider the request for interim authorisation. The ACCC received two submissions, neither of which opposed the interim authorisation.

## **REASONS FOR DECISION**

In granting interim authorisation the ACCC considers that the protection provided by interim authorisation will allow the applicants to continue to utilise the swing service provisions of the RMR.

The RMR will also ensure that a system of compliance, operated by an independent panel, can operate.

Granting authorisation will thereby maintain the status quo while the application is considered, given that the current immunity will expire on 31 May 2009.

The ACCC has taken into account that no objections have been raised to the application for interim authorisation.

## **RECONSIDERATION OF DECISION**

The ACCC may review its decision on interim authorisation at any time. 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.