



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: 43916  
Contact Officer: Neil Howes  
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11 April 2011

Ramy Soussou  
Acting CEO  
Energy Assured Limited  
Suite 2, Level 4, 189 Kent Street  
SYDNEY NSW 2000

Dear Mr Soussou

**Energy Assured Limited Application for authorisation A91258 & A91259  
- draft determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the application for authorisation lodged by Energy Assured Limited (EAL) on 29 October 2010 and amended on 11 February 2011.

**Draft determination**

A copy of the ACCC's draft determination is attached, including a summary of its reasons. For the reasons set out in its draft determination, the ACCC proposes to deny authorisation. The ACCC's assessment is set out in Chapter 4 on pages 17 to 56.

**Timing**

The statutory timeframe for the ACCC to release a final determination on this authorisation is 29 April 2010. In light of changes to the scheme made by EAL on 11 February 2011, and to allow the ACCC sufficient time to assess and consult on the revised scheme, we note that EAL has given the ACCC an assurance (in writing) that it will agree to extend the statutory timeframe for release of a final determination until 30 June 2011.

Under s90(10A) of the *Competition and Consumer Act 2010*, EAL's agreement to an extension cannot be formally sought until after the draft decision has been prepared by the ACCC. Accordingly, the ACCC seeks confirmation from EAL that it agrees to extend the statutory timeframe for release of the final determination until 30 June 2011. The ACCC seeks confirmation of this agreement by 13 April 2011 in writing.

If the ACCC does not receive confirmation of this agreement from EAL in writing by 13 April 2011 then the ACCC will release a draft determination before 29 April 2011.

The dates and indicative timeframes set out in the rest of this letter are based on the extended timeframe.

### **Next steps**

Once the ACCC issues a draft determination, the Applicant or any interested party may request that the ACCC convene a 'pre-decision conference'. A pre-decision conference provides the opportunity for interested parties to make oral submissions in relation to the draft determination. Conferences are conducted informally and while legal or professional advisers are able to attend they are not entitled to participate in the discussion.

If you wish the ACCC to hold a pre-decision conference in relation to the draft determination, you must notify the ACCC in writing by **25 April 2011**.

In addition, you are invited to make a written submission in response to the ACCC's draft determination. Submissions should be lodged by **21 April 2011**.

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-decision conference be called, and will then release a final determination in relation to these applications.

Submissions will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

### **Timetable**

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

<b>11 April 2011</b>	Draft determination
<b>25 April 2011</b>	Deadline for stakeholders to request a pre-decision conference
<b>21 April 2011</b>	Closing date for submissions on draft determination
<b>w/c 2 May 2011</b>	Pre-decision conference (if called)
<b>June 2011</b>	Final determination.

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 Neil Howes on (03) 9290 1416.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'R' followed by a long, sweeping horizontal line that tapers to the right.

Dr Richard Chadwick  
General Manager  
Adjudication Branch