



**Australian
Competition &
Consumer
Commission**

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Our Ref: N95736
Contact Officer: Tanya Hobbs
Contact Phone: (02) 6243 1029

9 March 2012

Dear Sir or Madam

**Notification N95736 lodged by ENERGEX Limited
- interested party consultation**

The Australian Competition and Consumer Commission (ACCC) understands that you have dealt with ENERGEX Limited (Energex) as a consultant (either directly or through a subdivision developer). Energex has notified the ACCC that it proposes to engage in certain conduct (outlined below).

By notifying the conduct to the ACCC, Energex may be able to gain statutory protection for this conduct. The ACCC is inviting you to provide any comments you may wish to make regarding the conduct proposed by Energex.

The following is an outline of the conduct notified by Energex:

- in general, Energex proposes to require consultants that it engages directly to design changes to its electricity distribution network ('work plans') to use one of the two electricity network design programs it has developed ('the two programs');
- Energex also proposes to charge subdivision developers a \$600 to \$1200 conversion fee for each work plan submitted which has not been created using one of the two programs. Both of the two programs will be made available at zero cost to consultants which prepare work plans for subdivision developers;
- in order to use either of the two programs, consultants will need to have or acquire a licence to use AutoCAD 2011 and any subsequent version of AutoCAD required to use the two design programs. This may cost up to \$5000 per licence if the consultant does not already have a licence; and
- Energex submits it has made arrangements with KarelCAD to offer favourable pricing to consultants, however, a consultant may choose the AutoCAD supplier of its choice.

For more details please refer to the notification, which is available on the ACCC's website www.accc.gov.au/ExclusiveDealingRegister.

The role of the ACCC

The conduct was notified to the ACCC by Energex on 28 February 2012 and would generally be considered to fall within the definition of exclusive dealing, which is regulated by section 47 of the *Competition and Consumer Act 2010* (the Act). By notifying the conduct to the ACCC, Energex may be able to gain statutory protection from the Act.

The ACCC may revoke the notification at any time if it considers that the public detriment from the conduct outweighs the public benefit. In order to assess the balance of public detriment and benefit, the ACCC is contacting you and a number of other potentially interested parties via this letter.

Invitation to make a submission or provide comment

As a potentially interested party, the ACCC invites you to make a submission on your view about any likely public benefits, any likely harm to competition, or any other public detriment, that you consider may arise from the conduct notified by Energex. If you intend to provide a submission in relation to Energex's notification, please do so by **Friday 23 March 2012**. Submissions can be lodged by email to adjudication@acc.gov.au, by facsimile on (02) 6243 1212 or posted to GPO Box 3131, Canberra ACT 2601.

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request you make for material to be excluded from the register (guidelines are attached). A summary of the notification process, outlining the ACCC's role in assessing notifications and how to make a submission is also attached.

You may wish to forward this letter to any other person you think may wish to make a submission to the ACCC regarding the notification.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please contact Tanya Hobbs on (02) 6243 1029 or via adjudication@acc.gov.au.

Yours sincerely



pe Dr Richard Chadwick
General Manager
Adjudication Branch

Interested Parties list

Ampflo Pty Ltd
Ashburner Francis Pty. Ltd.
BCA Consultants (QLD) Pty Ltd
Cavill & Associates Pty Ltd
Electrical Reticulation Design Services Pty Ltd
Electro Technical Consultants Pty Ltd
EMF Griffiths Consulting Pty Ltd
GS & A Technical Services Pty Ltd
Gutteridge Haskins & Davey Pty Ltd
J & P Richardson Industries Pty Ltd
Jemena Asset Management Pty LTd
JJ Van der Boor & Assoc
Lectel Consulting Pty Ltd
Lincolne Scott Australia Pty Ltd
MDA Consulting Engineers Pty Ltd
Millwell Services Pty Ltd
mp3 Minor Project Power Planning
NDY Management Pty Ltd
Peter Eustace & Associates
R J Humphrey & Associates
Robin Russell & Associates
Vemtec Pty Ltd
Vision Energy Pty Ltd
VOS Hasthill Pty Ltd
Webb Australia Group (QLD) Pty Ltd
Wood & Grieve Pty Ltd
WorleyParsons Services Pty Ltd