



**CS Energy Limited & Ors –  
application for authorisation A91378  
Interim authorisation decision  
17 July 2013**

**Decision**

The Australian Competition and Consumer Commission (the ACCC) has granted interim authorisation in respect of the application for authorisation lodged by CS Energy Limited, Callide Energy Pty Ltd, IG Power (Callide) Limited, and Callide Power Management Pty Limited (the Applicants) on 20 June 2013.

Interim authorisation is granted to enable the Applicants to jointly negotiate with Anglo Coal the terms and conditions (including price) of supply of coal to be supplied to the Callide B and Callide C power stations. Interim authorisation does not extend to the making of or giving effect to any agreements.

Interim authorisation commences immediately and remains in place until it is revoked or the date the ACCC's final determination comes into effect.

**The application for authorisation**

Power generators CS Energy Limited, Callide Energy Pty Ltd, IG Power (Callide) Limited and Callide Power Management Pty Limited (the Applicants) have sought authorisation to jointly re-negotiate existing coal supply arrangements with Anglo Coal.

The applicants are involved in a series of joint ventures in relation to the ownership and operation of the Callide power stations. The two generators are located adjacent to Anglo Coal's mine and are supplied with coal via a single conveyor belt.

**The authorisation process**

Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (the Act). Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist it to determine whether a proposed arrangement results in a net public benefit.

**Interim authorisation**

Pursuant to section 91 of the Act, the ACCC may grant interim authorisation at any time if the ACCC considers it appropriate to do so.

The Applicants requested interim authorisation on the basis that there is an urgent need to commence negotiations between the parties due to the ongoing significant financial impact of shortfalls in supply and coal quality issues.

## **Consultation**

Upon receipt of the application for authorisation, the ACCC invited submissions from interested parties in order to consider the request for interim authorisation. The ACCC did not receive any public submissions in relation to the request for interim authorisation.

Further information in relation to the application for authorisation, including any public submissions received by the ACCC as this matter progresses, may be obtained from the ACCC's website [www.accc.gov.au/authorisations](http://www.accc.gov.au/authorisations).

## **Reasons for decision**

In granting interim authorisation, the ACCC considers that there is benefit in allowing the parties to begin to jointly negotiate to attempt to address the ongoing impact of shortfalls in supply and coal quality issues for the Applicants, while the ACCC evaluates the merits of the substantive application. The ACCC considers it unlikely that any detriment will arise from the granting of interim authorisation as it extends only to negotiations and not to the making of, or giving effect to, any agreement. The ACCC granted authorisation in 2006 for the parties to jointly negotiate with Anglo Coal for the purposes of a contractual price review. The ACCC notes that Anglo Coal has not opposed the current proposed joint negotiations.

## **Reconsideration of interim authorisation**

The ACCC may review the interim authorisation at any time. The ACCC's decision in relation to the interim authorisation should not be taken to be indicative of whether or not the final authorisation will be granted.