



Australian
Competition &
Consumer
Commission

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Our ref: A91567 & A91568

Your ref:

Contact officer: Sara Mirabella

Contact phone: 03 9290 1411

31/01/2017

By email

Dear Sir/Madam

**The South Australian Chamber of Mines and Energy Inc (SACOME) & Ors
application for authorisation A91567 & A91568 —interested party consultation**

The Australian Competition and Consumer Commission (the ACCC) has received an application for authorisation from SACOME & Ors. The ACCC invites you to comment on the application.

Please see the ACCC's publication [Authorisation process – the basics](#) for a summary of the authorisation process and how to make a submission to the ACCC.

SACOME is seeking authorisation on behalf of itself and Nyrstar Port Pirie Ltd, Arrium Limited, OZ Minerals Limited, Adelaide Brighton Cement Ltd, Intercast & Forge Pty Ltd, Hillgrove Resources, Seeley International, Central Irrigation Trust, SMR Automotive, Thomas Foods International and Rex Minerals (the Participating Members). The Applicants propose to establish a joint electricity purchasing group to jointly tender, negotiate and contract for the supply of electricity.

In particular, SACOME, on behalf of itself and the Participating Members, seeks authorisation for:

- SACOME and the Participating Members to collectively conduct a tender process, and to negotiate an overarching electricity supply contract with the successful electricity supplier(s);
- the Participating Members to individually enter into a separate contract on the same or substantially similar terms and conditions with the chosen electricity supplier(s); and
- certain decisions regarding the ongoing administration and operations of certain aspects of the electricity supply agreements to be made jointly.

Authorisation is sought for a total period of 11 years.

A full copy of the application for authorisation is available on the ACCC's website www.acc.gov.au/AuthorisationsRegister. Alternatively, you can contact Sara Mirabella on 03 9290 1411 to obtain a hard copy of the application and submission.

Interim authorisation

SACOME has requested interim authorisation by 31 March 2017 in order to:

- investigate potential electricity supply options for the Applicant's combined electricity loads;
- conduct a request for proposal/tender process for the supply of the Applicant's combined electricity loads that is designed to identify and select a preferred electricity supplier or group of electricity suppliers able to supply the Applicant's combined electricity loads; and
- negotiate an overarching electricity supply contract with the successful electricity supplier(s) that enables Participating Members to gain access to the price and other terms and conditions offered by the successful electricity supplier(s) **if and when** the ACCC grants the final Authorisation.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefit and detriment likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including harm to the applicant and other parties if interim is or is not granted, possible benefit and detriment to the public, the urgency of the matter and whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

Request for submission

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements. In particular the ACCC would appreciate your views on the following issues:

Likely future without

1. Please identify major developments expected to impact on the wholesale and retail electricity industries in South Australia in the coming decade.
2. Without the proposed collective purchasing, are there barriers to the Applicants securing reliable and similarly priced electricity contracts?
3. Without the proposed collective purchasing, are any of the Applicants likely to cease operations in South Australia?
4. Is the collective purchasing likely to increase competition between suppliers of electricity in South Australia? Why?

Areas of competition

The Applicants consider that the relevant markets are the market for: (i) the generation and wholesale supply of electricity in the National Electricity Market or in the South Australian region of the NEM, and (ii) the market for the retail supply of electricity in South Australia.

5. Please comment on whether the South Australian region of the NEM constitutes a separate market.
6. Please comment on whether any upstream or downstream markets are likely to be impacted by the proposed conduct.

Public benefits and detriments

7. Please comment on the relative bargaining power of the Applicants (individually and as a group) and of relevant electricity suppliers.

The Applicants argue that the joint tendering arrangement may induce new entrants in the supply of electricity, incentivise existing suppliers to expand operations, or incentivise existing suppliers not to cease or roll back operations.

8. Do you consider the proposed arrangements are likely to incentivise new entry or expansion in the relevant electricity supply market?

The Applicants also argue that 'the introduction of further synchronous generation into the South Australian market' would increase power system security and reliability, citing two instances of unreliable electrical supply in November 2015 and September 2016 (pp14-15).

9. Please comment on the likelihood and extent that the proposed conduct may increase power system security and reliability and prevent future instances of unreliable electrical supply.
10. Please provide any other comments regarding the public benefits claimed by the applicants or any other public benefits of the proposed collective purchasing.
11. Please provide any other comments regarding any public detriments likely to arise from the proposed collective purchasing.

Period of authorisation

12. Please comment on the appropriateness of the period of authorisation requested, which is a total of 11 years, comprising 6-12 months for the tendering process, a 3-5 year contract term plus the option to extend for a further 3-5 years.

If you intend to provide a submission in relation to SACOME's application for interim and substantive authorisation, please do so by **21 February 2017**.

Submissions should be emailed to adjudication@accc.gov.au with the subject 'A91567 & A91568 – SACOME & Ors – submission'.

Alternatively, if you would like to provide comments orally, please contact Sara Mirabella on 03 9290 1411 to organise a suitable time.

The authorisation review process is a public process. Accordingly, submissions—including oral submissions—are placed on the ACCC's public register unless a confidentiality claim is made. When making a submission, please confirm that you consent to the submission being placed on the public register, or make a request that your submission (or parts thereof) be excluded from the public register. If you wish to exclude some or all of your submission from the public register, please see the ACCC's online publication [Guidelines for excluding information from the public register](#).

Timetable

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

4 January 2017	Lodgement of application and supporting submission.
31 January 2017	Public consultation process begins.
21 February 2017	Closing date for submissions on interim and substantive authorisation.
27 February 2017	Applicant responds to issues raised in the public consultation process.
March 2017	ACCC decision regarding interim authorisation.
April 2017	Draft determination.
April/May 2017	Public consultation on draft determination including any conference if called.
June 2017	Final determination.

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the applications at the draft and final determination stages. If you are able to, please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the applications.

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 Sara Mirabella on 03 9290 1411 or adjudication@acc.gov.au.

Yours sincerely



Lyn Camilleri
Director
Adjudication