



**Australian Energy Market Operator Limited –
Application for authorisation AA1000643
Interim authorisation decision
13 July 2023**

Decision

1. The Australian Competition and Consumer Commission (the **ACCC**) has granted conditional interim authorisation in respect of the application for authorisation AA1000643, lodged by the Australian Energy Market Operator (**AEMO**) on 7 June 2023.
2. The ACCC grants conditional interim authorisation to AEMO, its related bodies corporate, AEMO Industry Participants and Future AEMO Industry Participants¹ for the Authorised Conduct (as defined in paragraph 38), subject to the restrictions outlined in paragraphs 39 – 41 and the conditions set out at paragraph 42.
3. In summary, interim authorisation is granted to enable AEMO, AEMO Industry Participants and Future AEMO Industry Participants to discuss, enter into or give effect to any contract, arrangement or understanding between them, or engage in conduct related to certain coordination and information sharing activities provided it has the sole purpose of either:
 - ensuring the safe, secure and reliable operation of Australia’s electricity systems, and minimising the risk of any energy outages and/or
 - ensuring the continued operation and integrity of the National Electricity Market.
4. The ACCC grants conditional interim authorisation in relation to Division 1 of Part IV of the *Competition and Consumer Act 2010* (Cth) (the **Act**) and sections 45(1) and 46(1) of the Act.² The ACCC may authorise a Committee or Division of the ACCC, a member of the ACCC or a member of the ACCC staff to exercise a decision making function under the conditions of this interim authorisation on its behalf.
5. Interim authorisation commences immediately and remains in place until it is revoked, the application for authorisation is withdrawn, or the date the ACCC’s final determination comes into effect.

The application for authorisation

6. AEMO is the independent market and system operator for gas and electricity systems across Australia, including the National Electricity Market. AEMO’s members include both government and industry participants.
7. AEMO’s application for authorisation is made on behalf of:
 - AEMO and its related bodies corporate

¹ AEMO Industry Participants and Future AEMO Industry Participants are defined in paragraph 7.

² AEMO initially also sought authorisation in respect of s 47 of the Act. On 4 July 2023, AEMO confirmed that it no longer seeks authorisation for s 47 and consider, in any event, that the proposed conduct will not involve exclusive dealing. This clarification is available on the ACCC’s [public register](#).

- participants in Australian electricity markets (other than in Western Australia), being parties with a registration in, or a registration exemption from, the National Electricity Market and their related bodies corporate (defined as **AEMO Industry Participants**)³ and
- other entities that become participants registered in the National Electricity Market or parties with a registration exemption from the National Electricity Market and their related bodies corporate, as notified in writing by AEMO to the ACCC (defined as **Future AEMO Industry Participants**)

(together, the **Participants**).

Previous authorisations

8. Since 2020, the ACCC has granted authorisation to AEMO and other industry participants for similar cooperation and information sharing arrangements on 3 occasions.
9. Most recently, in November 2022, the ACCC granted authorisation (AA1000618) with conditions to AEMO and industry participants for broader cooperation and information sharing arrangements in both the electricity and gas industry (the **Energy Crisis Authorisation**). This application was made in response to the potential crisis in the energy sector that arose in May/June 2022 and the ongoing effects of the COVID-19 pandemic and the Russian invasion of Ukraine. The conduct authorised in the Energy Crisis Authorisation was broader than earlier (COVID response) authorisations as it included potential coordination on the deferral of non-essential works and coordination for the purpose of managing system stability. This authorisation expired on 30 April 2023.

Proposed Conduct

10. AEMO seeks authorisation to enable it and its related bodies corporate, AEMO Industry Participants and Future AEMO Industry Participants to discuss, enter into or give effect to any contract, arrangement or understanding between them, or engage in any conduct, related to planning for and/or minimising any disruptions to electricity supply by:

- coordinating outages of generation, transmission and distribution assets for the purposes of repairs, maintenance, renewals, upgrades and new connections (**System Works**)
- sharing information in relation to essential employees and contractors to ensure there are sufficient personnel to undertake System Works
- sharing information about the availability of parts, equipment or specialised resources necessary for System Works
- sharing information about any risks to the ongoing availability, performance and/or operation of their energy facilities for the purposes of scheduling System Works
- sharing information about electricity system stability from a technical perspective for the purposes of scheduling System Works,

provided:

- the purpose for doing so is either to:

³ Current AEMO Industry Participants as at 1 June 2023 are listed in Schedule 1 of AEMO's application or authorisation dated 7 June 2023.

- ensure the safe, secure and reliable operation of Australia's electricity systems, and minimise the risk of any energy outages, during the period of the authorisation and/or
- ensure the continued operation and integrity of the National Electricity Market during the period of the authorisation and
- this conduct does not include the sharing of specific generators' wholesale prices, costs and margins,

(the **Proposed Conduct**).

11. AEMO submits that the Proposed Conduct would be limited to discussions, conduct, contracts, arrangements and/or understandings to which AEMO, or its related bodies corporate, is either a party or has facilitated. Where the Proposed Conduct involves a meeting or discussions between AEMO Industry Participants or any Future AEMO Industry Participants, then:

- AEMO must attend
- only AEMO Industry Participants or Future AEMO Industry Participants invited by AEMO or its related bodies corporate may attend
- the ACCC will be provided with advance notice of the meeting, attendees and agenda and invited to attend, and
- where the Proposed Conduct involves a meeting relating to a specific state or territory jurisdiction or jurisdictions, a senior officer of the relevant state or territory government department or departments with responsibility for energy, or their delegate, will be provided with advance notice of the meeting, attendees and agenda and invited to attend.

12. Authorisation is not sought to discuss, enter into or give effect to any contracts, arrangements or understandings, or engage in any other conduct, regarding the wholesale or retail price of electricity.

13. AEMO submits that the conduct is not compulsory. Any AEMO Industry Participant or Future AEMO Industry Participant can opt out of any proposed collaboration.

14. AEMO submits that the Proposed Conduct is narrower than the conduct previously authorised by the Energy Crisis Authorisation as the Proposed Conduct:

- is limited to conduct related to electricity (i.e., does not include conduct related to gas)
- is limited to discussions, conduct, contracts, arrangements and/or understandings related to System Works
- does not cover entering into common arrangements in relation to sharing essential employees and contracts to ensure there are sufficient personnel to maintain and operate electricity infrastructure
- does not cover sharing information about the availability of, and/or entering into arrangements to share sufficient quantities of, essential inputs for energy production, generation, transmission, distribution and supply systems infrastructure, including:
 - water, gas, coal, diesel and other fuels for generators (**Generator Fuels**)
 - services for the transport of Generator Fuel

- parts, equipment or specialised resources necessary for essential maintenance of facilities for the transport of General Fuel, and
 - other consumable materials necessary for the operation of such facilities
 - does not cover entering into common arrangements in order to manage electric system stability from a technical perspective.
15. AEMO proposes that authorisation be granted with 3 conditions requiring certain reporting, the immediate termination of any contract, arrangement or understanding entered into in reliance on any interim authorisation or final authorisation upon expiry or revocation of the authorisation and the presence of a competition lawyer at meetings or discussions between AEMO Industry Participants or any Future AEMO Industry Participants.
16. AEMO seeks authorisation until 30 June 2026.

Background

17. The National Electricity Market is one of the largest interconnected electricity grids or power systems in the world; it interconnects the 6 eastern and southern states and territories of Australia and delivers around 80% of all electricity consumption in Australia.⁴
18. The National Electricity Market is a wholesale market through which generators and retailers trade electricity. The National Electricity Market operates as a 'spot market', or 'pool', in which power supply and demand are matched in real time through a centrally coordinated dispatch process that is managed by AEMO. Generators sell electricity to the pool and retailers buy electricity from the pool to on-sell to consumers.
19. From a technical perspective, the National Electricity Market is an interconnected network that requires a number of essential system services (or ancillary services), such as frequency response, inertia and system strength, to help keep the electricity system operating in a safe, stable and secure operating state. Essential system services influence the ability of the network to balance supply and demand, deal with disruptions to this balance and address other technical issues in real time.
20. Many of these essential system services have traditionally been provided as a by-product of synchronous electricity generation (such as coal, gas and hydroelectric) and have historically been available in sufficient quantities without the need to actively source more. As synchronous generators reach their end of life or otherwise leave the National Electricity Market or reduce their operations, the supply of essential system services is reduced.
21. Currently, most large-scale batteries, wind and solar generators do not provide or generate essential system services in the same way that synchronous generators do; they instead create greater demand for some essential system services.⁵
22. The combination of these 2 factors (being decreasing supply and increasing demand for essential system services) means that new ways are needed to actively source, and pay for, these essential system services as the National Electricity Market moves away from synchronous generation and is increasingly reliant on renewable generation.

⁴ See <https://www.energy.gov.au/government-priorities/energy-markets/national-electricity-market-nem#:~:text=The%20NEM%20is%20a%20wholesale,not%20connected%20to%20the%20NEM>.

⁵ AEMC, Efficient management of system strength on the power system, Rule determination, 21 October 2021, 4.

23. According to AEMO's 2022 Electricity Statement of Opportunities, there is a need to progress anticipated generation, storage and transmission developments to support the transition currently underway, with the National Electricity Market expected to experience a cluster of announced coal-fired generator retirements in the next decade as well as other potential future closures.⁶ The 2022 Electricity Statement of Opportunities indicated that there remained a degree of risk in 2022-23 as a result of weather uncertainty or other circumstances, such as prolonged periods of unavailability of generation or transmission, including forced outages and planned maintenance.⁷
24. AEMO submits that Australia's electricity system and industry is currently in a period of transition, with a shift from reliance on thermal generation to diversified renewable electricity sources. AEMO advises that, during this period of transition, Australia's electricity industry is facing challenges that pose threats to reliable electricity supply across the National Electricity Market, including:
- increasing reliance on a smaller number of significant generators, as a result of recent and forthcoming retirements of coal-fired generation
 - an aging fleet of remaining coal-fired generators that require more frequent and extended repairs and maintenance
 - long lead times for planning System Works as a result of global supply chain issues relating to parts and equipment and ongoing labour shortages
 - replacement renewable generation and firming capacity has not yet been developed to the extent that it can fully replace retired capacity
 - increased incidence of extreme and/or unusual weather conditions and
 - the connection of new renewable energy generators and consequential upgrades to the National Electricity Markets transmission infrastructure requiring extensive outages.
25. AEMO submits that, in combination, these factors mean that if outages associated from System Works occur in an uncoordinated way there is a real threat to reliability of electricity supply, risk of electricity outages and/or adverse impacts on wholesale electricity prices during the periods in which outages are occurring.
26. AEMO does have some powers under the *National Electricity Rules* in approving outages for System Works purposes and can give relevant instructions or directions to market participants based on its understanding of risks in the market in order to achieve its power system security responsibilities. AEMO advises that, ordinarily, it obtains information through its Projected Assessment of System Adequacy,⁸ bidding systems and through bilateral discussions with relevant market participants.
27. Where there are potential risks and issues across the entire energy system, AEMO submits that relying on bilateral discussions when dealing with critical incidents (or a series of critical incidents) is not efficient, is unlikely to provide the necessary visibility of key risks and increases the possibility that sufficient and reliable supply of energy is not achieved. AEMO considers that it is preferable to prevent these situations arising in the first place and that its powers to issue directions to market participants should only be utilised as a measure of last resort.

⁶ AEMO, 2022 Electricity Statement of Opportunities, 31 August 2022, 5.

⁷ Ibid, 7.

⁸ The Projected Assessment of System Adequacy is the principal method that AEMO uses to forecast the adequacy of the power system to stay within the relevant reliability standard. As per the *National Electricity Rules*, AEMO is required to prepare these forward looking projections in two-time frames, being short term (covering a period of 6 trading days) and medium term (covering a period of 24 months): <https://aemo.com.au/en/energy-systems/electricity/national-electricity-market-nem/nem-forecasting-and-planning/forecasting-and-reliability/projected-assessment-of-system-adequacy>.

28. The ACCC understands that intervention by AEMO typically arises in response to a crisis, such as weather events or unexpected shutdowns of generators, and that, in these circumstances, it can often be too late for any sort of intervention by AEMO to provide for an immediate fix. For example, coal fired generators have a long start-up time (of up to 48 hours) which means that AEMO would be unable to direct a certain generator to turn on immediately to provide necessary supply of electricity and/or essential system services to the network. In these instances, the ACCC understands that the ability of AEMO to respond to these incidents is often limited to them directing load shedding⁹ in the intervening period while a generator comes online, which results in the disconnection of electricity supply to a number of users.
29. Regarding the Energy Crisis Authorisation, AEMO advises that the conduct that occurred pursuant to it was largely limited to fortnightly meetings of electricity generators to discuss System Works. AEMO submits that the Energy Crisis Authorisation worked well to provide timely information about System Works and, where necessary, allowed for steps to be taken to minimise threats to system reliability. AEMO submits that it was unaware of any anticompetitive detriments arising from these meetings and considers that the absence of situations in which it had to use its powers under the *National Electricity Rules* is indicative of the authorisation achieving its stated objectives. However, the ACCC notes that AEMO did not provide detailed information to support this contention. Further, AEMO considers that the conditions outlined in paragraph 24 above are likely to worsen over the near term and therefore the Proposed Conduct is likely to become even more critical in avoiding such situations moving forward.

The authorisation process

30. Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of 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

31. Section 91 of the Act allows the ACCC, where it considers it appropriate, to grant interim authorisation. This allows the parties to engage in conduct while the ACCC is considering the substantive application.
32. AEMO considers that there is an urgent need for interim authorisation as the winter period begins with recent developments creating a heightened reliance on thermal generation. AEMO submits that interim authorisation will be critical to managing these threats to reliable electricity supply, including by:
- allowing the Participants to respond to these challenges swiftly by engaging in the Proposed Conduct in an expedited manner
 - allowing the Participants to work together cooperatively to ensure that the risk of any disruption to the safe, secure and sustainable supply of electricity is mitigated and
 - managing System Works efficiently ahead of what is expected to be a summer with a high likelihood of challenging weather conditions in

⁹ Load shedding is the controlled reduction of electricity supply to parts of the power system to protect system security and mitigate damages to infrastructure – it is a last resort measure to avert the risk of system collapse, physical damage to parts of the power system and long-term outages.

circumstances where there will be lower baseload capacity following the closure of a generation plant.

33. AEMO submits that granting interim authorisation will maintain the status quo by allowing the Participants to resume working together as they had been since 1 July 2022 pursuant to the Energy Crisis Authorisation, noting that the scope of the Proposed Conduct in this application is more limited.
34. The ACCC notes that the Energy Crisis Authorisation expired on 30 April 2023.

Consultation

35. The ACCC invited submissions from a range of potentially interested parties. To date, the ACCC has received no submissions in relation to the interim authorisation application or the substantive application for authorisation.
36. Further information in relation to the application for authorisation, including any public submissions received by the ACCC as this matter progresses, may be viewed from the ACCC's [public register](#).

The Authorised Conduct

37. The **Authorised Conduct** is the conduct specified in paragraph 38, subject to the restrictions outlined in paragraphs 39 to 41.
38. The ACCC grants conditional interim authorisation to enable the Participants to discuss, enter into or give effect to any contract, arrangement or understanding between them, or engage in conduct, solely related to planning for and/or minimising any disruptions to electricity supply by:
 - a. coordinating outages of generation, transmission and distribution assets for the purposes of repairs, maintenance, renewals, upgrades and new connections (**System Works**)
 - b. sharing information in relation to essential employees and contractors to ensure there are sufficient personnel to undertake System Works
 - c. sharing information about the availability of parts, equipment or specialised resources necessary for System Works
 - d. sharing information about risks to the ongoing availability, performance and/or operation of their electricity facilities solely in order to facilitate the scheduling of System Works
 - e. sharing information about electricity system stability from a technical perspective solely in order to facilitate the scheduling System Works,provided:
 - f. the purpose for doing so is either to:
 - ensure the safe, secure and reliable operation of Australia's electricity systems, and minimise the risk of any energy outages, during the period of the authorisation and/or
 - ensure the continued operation and integrity of the NEM during the period of the authorisation, and
 - g. this conduct does not include the sharing of specific Participants' wholesale prices, costs and margins
39. The Authorised Conduct is limited to discussions, conduct, contracts, arrangements and/or understandings to which AEMO, or its related bodies corporate, is either a party to or has facilitated. Where the Authorised Conduct involves a meeting or

discussions between AEMO Industry Participants or any Future AEMO Industry Participants, then:

- AEMO must attend
 - only AEMO Industry Participants or Future AEMO Industry Participants invited by AEMO or its related bodies corporate may attend
 - the ACCC will be provided with advance notice of the meeting, attendees and agenda and invited to attend and
 - where the Authorised Conduct involves a meeting relating to a specific state or territory jurisdiction or jurisdictions, a senior officer of the relevant state or territory government department or departments with responsibility for energy, or their delegate, will be provided with advance notice of the meeting, attendees and agenda and invited to attend.
40. Where the conduct described in paragraph 38 will involve a contract, arrangement or understanding between competing AEMO Industry Participants or Future AEMO Industry Participants, then authorisation is only granted to give effect to such a contract, arrangement or understanding to the extent it falls within the scope of a contract, arrangement or understanding recorded in a record made by AEMO (or its legal representative) in accordance with Condition 4 below.
41. Authorisation is **not** granted for the Participants to discuss, enter into or give effect to any contracts, arrangements or understandings, or engage in any other conduct, regarding the wholesale or retail price of electricity.

Granting of conditional interim authorisation

42. Interim authorisation is granted with the following conditions:

Condition 1 – Reporting requirements: AEMO must comply with the Reporting and Communications Protocol (as outlined at Schedule 1 of this decision). This protocol includes AEMO providing monthly reports to the ACCC about the contracts, arrangements or understandings made at meetings during the preceding period, allows the ACCC to observe meetings and request additional information about the Authorised Conduct.

Condition 2 – Agreements not to endure beyond authorisation period: Any contract, arrangement or understanding entered into/arrived at in reliance on the interim authorisation must provide for its immediate termination (other than any provisions dealing with ongoing confidentiality obligations), upon the expiry or revocation of the interim authorisation (unless another interim authorisation or final authorisation relating to that conduct is granted).

Condition 3 – Presence of competition lawyer: Where the Authorised Conduct involves a meeting or discussion between AEMO Industry Participants and/or any Future AEMO Industry Participants, an external lawyer with expertise in competition law, engaged by AEMO and approved by the ACCC, must attend the meetings with instructions to immediately advise the attendees if, during the course of the meeting, they develop concerns that there is conduct occurring that is outside the scope of the interim authorisation and risks breaching the Act.

Condition 4 – AEMO to make and keep a record: Prior to or at the time Participants give effect to any contract, arrangement or understanding between competing AEMO Industry Participants and/or Future AEMO Industry Participants, which has been discussed and/or entered into and/or arrived at as part of the

Authorised Conduct, AEMO (or its legal representative) must make and keep a contemporaneous record of:

- the parties to the contract, arrangement and understanding
- the nature and scope of the conduct the parties will engage in, and
- the anticipated or agreed duration of the conduct

and make it available to the parties as soon as practicable.

Reasons for decision

43. AEMO Industry Participants may be considered competitors in the:

- generation, transmission, transportation and/or supply of electricity in Australia and/or
- procurement of essential inputs for electricity production, generation, transmission, distribution and/or supply systems and infrastructure in Australia.

44. The ACCC recognises that Australia's electricity system is undergoing a period of transition, with a shift from reliance on thermal generation to diversified renewables and acknowledges that this transition is likely to create challenges for AEMO in ensuring reliable electricity supply.

45. The ACCC considers that the Authorised Conduct is likely to result in public benefits by improving the ability of AEMO to facilitate more efficient scheduling and coordination of System Works. This will reduce the risk of supply shortfalls and blackouts across the National Electricity Market during the ongoing transition to renewable generation in Australia's electricity systems.

46. The more proactive approach to the coordination of System Works facilitated through this interim authorisation reduces the potential for unnecessary or extended outages or other system security issues as AEMO and industry participants respond to the impacts of the transition to renewable electricity.

47. In deciding to grant interim authorisation, the ACCC has taken into account that:

- Under previous similar (albeit broader) authorisations, public benefits arose from AEMO holding regular meetings with industry participants to coordinate the scheduling of maintenance and outages and the ACCC is unaware of any significant detriments that arose from this conduct. The ACCC acknowledges, however, that the circumstances which gave rise to the previous authorisations are different from those the current application seeks to address.
- The Authorised Conduct is narrower in scope than the Energy Crisis Authorisation (as detailed in paragraph 14). In particular, the Authorised Conduct is limited to conduct related to electricity markets (i.e., does not include conduct related to gas), does not allow for the sharing of information regarding essential inputs and does not allow for coordination regarding the deferral of non-essential works.
- The Authorised Conduct does not involve the Participants entering into any contracts, arrangements, or understandings regarding the wholesale or retail price of energy, and does not include the sharing of Participants' wholesale price, costs and margins.
- In the event of a critical incident, last resort measures (as outlined in paragraphs 26 and 27) are likely to involve load shedding which would result

in significant harm to electricity users (as noted in paragraph 28). AEMO considers, and the ACCC agrees, it is instead beneficial to proactively manage the scheduling of maintenance and outages to prevent these situations arising in the first place.

- The ACCC will consider any impacts of the conduct on competition and its effectiveness in delivering claimed benefits as part of its assessment of the substantive application, and can vary or revoke interim authorisation at any time.

48. The ACCC considers that the risk of anti-competitive harm and the risk of collusion or coordinated conduct beyond that authorised is reduced in circumstances where:

- A variety of generation data, including maintenance information, is already publicly available on AEMO's website. This includes short and medium-term forecast data prepared by AEMO as part of its Projected Assessment of System Adequacy¹⁰ and various information on the projected generating capacity of current and proposed generation projects in the National Electricity Market.¹¹
- The purpose for the sharing of information and coordination is limited to ensuring the safe, secure and reliable operation of electricity systems, minimising the risk of any energy outages and/or ensuring the continued operation and integrity of the National Electricity Market.
- Discussions between AEMO Industry Participants and Future AEMO Industry Participants can only occur within the limitations outlined in paragraph 39.
- The Participants are not authorised to have discussions or reach agreements without the oversight of AEMO.
- If the Authorised Conduct involves coordination between AEMO Industry Participants and/or any Future AEMO Industry Participants, a lawyer with expertise in competition law will be present and the ACCC and a senior officer of the relevant state or territory government department with responsibility for energy (or their delegate) will also be invited to attend.
- The electricity market is overseen by a number of bodies, including the Australian Energy Regulator and the Australian Energy Market Commission and is governed by a range of State and Territory legislation, including a national set of energy laws, rules and jurisdictional legislation, as well as guidelines, standards and procedures.

49. There is a risk of a lessening of competition in any situation where competitors share commercially sensitive information. Further, such information sharing and coordination creates a risk of collusion or coordinated conduct beyond that authorised. The ACCC considers that there is a real risk that the Proposed Conduct (without conditions and other refinements) could result in public detriments in the form of a reduction in competition in wholesale energy markets, maintenance and other inputs and the potential for collusion or coordinated conduct beyond that authorised.

50. Accordingly, the ACCC considers that refinements to the definition of the conduct and the inclusion of an additional condition to those proposed by AEMO are

¹⁰ This data is available on AEMO's website here: <https://aemo.com.au/en/energy-systems/electricity/national-electricity-market-nem/data-nem/market-management-system-mms-data/projected-assessment-of-system-adequacy-pasa>.

¹¹ See, for example, <https://aemo.com.au/energy-systems/electricity/national-electricity-market-nem/nem-forecasting-and-planning/forecasting-and-planning-data/generation-information>.

necessary to ensure sufficient transparency and to mitigate likely public detriment in granting interim authorisation.

51. In summary, the key changes made are:

- Interim authorisation has only been granted for the Participants to discuss, enter into or give effect to any contract, arrangement or understanding between them, or engage in conduct, solely related to planning for and/or minimising any disruptions to electricity supply. The ACCC considers that this limitation is necessary to reduce ambiguity.
- Several changes to the Reporting and Communications Protocol (contained in Schedule 2 of the application) have been made to provide a greater degree of transparency in AEMO's reporting (refer to the Reporting and Communications Protocol attached at Schedule 1 of this Interim Authorisation).
- An additional condition (**Condition 4**) has been maintained from the Energy Crisis Authorisation which requires AEMO to make and keep a contemporaneous record of certain details when contracts, arrangements or understandings are discussed and/or entered into and/or arrived at between competing Participants and make it available to the parties as soon as practicable. The ACCC has maintained Condition 4 as it considers it is necessary to sufficiently reduce the risk of detriment and to ensure that the parties have clarity as to what specific conduct has been agreed.
- Where the conduct described in paragraph 38 will involve a contract, arrangement or understanding between competing AEMO Industry Participants and/or Future AEMO Industry Participants, then interim authorisation is only granted to conduct to give effect to such a contract, arrangement or understanding as recorded in a record made by AEMO (or its legal representative) in accordance with Condition 4.
- The restriction which precludes the sharing of 'specific generators' wholesale price, costs and margins' has been expanded (as it was in the Energy Crisis Authorisation) to include all Participants' wholesale price, costs and margins.

Reconsideration of interim authorisation

52. The ACCC may review the interim authorisation at any time.

53. The ACCC's decision in relation to the interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted.

Purpose

1. This is the Reporting and Communications Protocol (**Reporting Protocol**) referred to in condition 1 of the ACCC's interim authorisation decision of 13 July 2023 (**Interim Authorisation**) in respect of arrangements between AEMO and certain industry participants for the purpose of dealing with the effects of challenges that pose threats to reliable electricity supply across the National Electricity Market.
2. Capitalised terms used but not defined in this document have the meaning given in the Interim Authorisation.

AEMO's reporting commitments

3. While AEMO engages in conduct enabled by the Interim Authorisation, AEMO will provide each month (or such other period as the ACCC may approve in writing) a report to the ACCC setting out each contract, arrangement, understanding made by AEMO and AEMO Industry Participants (and any Future AEMO Industry Participants) in the previous month that involves the conduct enabled by the Interim Authorisation, including:
 - a) the dates of all contracts, arrangements or understandings entered into or arrived at that rely on the Interim Authorisation
 - b) the parties to each contract, arrangement or understanding entered into or arrived at that relies on the Interim Authorisation
 - c) what topics were discussed at meetings where those contracts, arrangements or understandings were entered into or arrived at, and/or the content of those contracts, arrangements or understandings, including key details such as the relevant products or services, quantities, timings, and financial or other compensation
 - d) a description of the issues arising that the relevant contract, arrangement or understanding seeks to address and how it will be addressed, and
 - e) where possible a non-confidential version of the report for publication on the public register.
4. For the avoidance of doubt, the AEMO's reports under this protocol must include all records made pursuant to condition 4 of the Interim Authorisation.

Information requested and concerns raised by the ACCC

5. The ACCC may request additional information regarding conduct enabled by the Interim Authorisation. AEMO, any AEMO Industry Participant and any Future AEMO Industry Participant must promptly provide any further information requested by the ACCC.
6. An ACCC representative may elect to attend any meeting or call as an observer where it is expected or intended that contracts, arrangements or understandings may be discussed, entered into or arrived at. AEMO will provide the ACCC with advance notice as soon as reasonably practicable of any meetings or calls (including recurring meetings and ad-hoc meetings) where material contracts, arrangements or understandings may be discussed, entered into or arrived at. The ACCC will give AEMO notice in advance of its

proposed representative at the relevant meeting or call, where reasonably practical to do so.

7. Any notice or request for information under paragraphs 5 to 6 should be provided to the contact person nominated by AEMO for the purposes of this Reporting Protocol.