

20 May 2020



Australian Competition and Consumer Commission
Level 7, 175 Pitt Street
Sydney NSW 2000

Dear Commissioners,

Subject: Australian Energy Market Operator interim authorisation (AA1000484-1)

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon people who are marginalised and facing disadvantage. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to respond to the Australian Competition and Consumer Commission's (the Commission) expanded interim authorisation granted to the Australian Energy Market Operator (AEMO) and others on 17 April 2020.

We support the intent of the authorisation to allow AEMO and participating parties to engage in proposed certain conduct intended to ensure the ongoing safety, security and reliability of Australian energy systems and the integrity of wholesale markets during the COVID-19 pandemic.

We support the Commission's decision to grant interim authorisation for a narrower range of conduct than sought, balancing the need to act quickly with protecting the interests of consumers. We appreciate the Commission's need to respond rapidly to the authorisation request but suggest for any future request it consults, even informally, with consumer advocates before granting interim authorisation for conduct that may materially affect consumers. There are many expert consumer advocates with extensive experience providing input on significant energy market decisions. The Commission should draw on this resource as part of best-practice engagement to ensure all relevant stakeholders are informed and prepared for announcements.

PIAC also considers some consumer oversight of the outcomes of the authorisation should be established. We note the Supermarket Taskforce, established in response to the COVID-19 crisis, provides some oversight of the outcomes of the proposed conduct of the 26 March interim authorisation granted to supermarkets. If a similar taskforce or body, such as the recently established Energy Coordination Mechanism, supervises the AEMO authorisation, we strongly recommend it be required to consult with consumer representatives.

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We support the Commission's reporting requirements for participating parties, particularly the requirement for a description of the issues arising from the COVID-19 pandemic that the proposed conduct seeks to address and how it will be addressed.

We are not convinced the authorisation should stay in place for a full 12 months from the final determination in July. Restrictions across Australia are currently being lifted and in the absence of a severe second wave of infections, the types of disruptions the proposed conduct seeks to overcome may no longer be material. We recommend the Commission consider a 6-month rather than 12-month authorisation.

We consider the types of conduct the authorisation allows may result in cost savings for the participating businesses as they are better able to coordinate various resources. We propose if this is the case the participating businesses pass these cost reductions through so consumers may benefit.

Yours sincerely

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