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Friday, 3 April 2020

Lyn Camilleri
General Manager, Electricity Markets Branch
Australian Competition and Consumer Commission
GPO Box 520
Melbourne VIC 3001

Dear Ms Camilleri

RE: Draft Guidelines on the Prohibiting Energy Market Misconduct Act

ERM Power Limited (ERM Power) welcomes the opportunity to respond to the Australian Competition and Consumer Commission's (ACCC) draft guidelines on the Prohibiting Energy Market Misconduct Act ("the Act").

About ERM Power

ERM Power (ERM) is a subsidiary of Shell Energy Australia Pty Ltd (Shell Energy). ERM is one of Australia's leading commercial and industrial electricity retailers, providing large businesses with end to end energy management, from electricity retailing to integrated solutions that improve energy productivity. Market-leading customer satisfaction has fuelled ERM Power's growth, and today the Company is the second largest electricity provider to commercial businesses and industrials in Australia by load¹. ERM also operates 662 megawatts of low emission, gas-fired peaking power stations in Western Australia and Queensland, supporting the industry's transition to renewables.

<https://ermpower.com.au/>

<https://www.shell.com.au/business-customers/shell-energy-australia.html>

General comments

ERM Power has provided detailed feedback on the draft bill and the ACCC's previous consultation to assist the Commission in developing the draft guidelines. We understand the rationale for the Prohibiting Electricity Market Misconduct Act and share the Government's desire to bring down electricity prices, preserve or enhance competition, ensure there is a deep and liquid contract market and avoid conduct which undermines the effective operation of the wholesale market. We consider that the development of fit-for-purpose guidelines is a critical part of this Act to ensure that the Act works as intended and does not create unintended consequences or perverse outcomes.

The ACCC's draft guidelines provide an indicator of the types of conduct that is likely to lead to prosecution or investigation by the ACCC. ERM Power advocated for different approaches to those contained in the draft guidelines, and we would note that real world examples will rarely be as clear cut as those presented.

Please contact me if you would like to discuss this submission further.

¹ Based on ERM Power analysis of latest published financial information.



Yours sincerely,



Ben Pryor
Regulatory Affairs Policy Adviser

