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Minister for Manufacturing,
Innovation and Trade
Minister for Mineral Resources
and Energy
Minister for Small Business
Level 8 Terrace Towers
178 North Terrace
Adelaide SA 5000
GPO Box 2832
Adelaide SA 5001
DX 451
Tel 08 8463 6560
Fax 08 8204 1960

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Mr Pierce

A handwritten signature in blue ink that reads 'John'.

Thank you for the opportunity to provide comment on the Australian Energy Market Commission's (AEMC) Draft Rule Determination in relation to the potential exercise of market power by generators in the National Electricity Market (NEM).

The South Australian Government notes the AEMC's findings that generators have, at times, raised wholesale prices above the level expected of an efficient and competitive market but that such behaviour has not been sustained. The AEMC has subsequently determined that there is insufficient evidence of the existence of substantial market power in the NEM that would justify a Rule Change.

As indicated in the Department for Manufacturing, Innovation, Trade, Resources and Energy's (DMITRE) previous submission to the AEMC, the South Australian Government fundamentally opposes generators using strategies to exploiting their market power with the goal of raising prices in the NEM.

The AEMC has noted that if there are concerns with the existence of market power in the future, it would be important to understand the cause to determine whether a Rule Change is the most effective way to address the issue. South Australia considers that, the AEMC should specify in their final determination how long high wholesale prices are required for the exercise of pricing power by generators to be considered sustained over the long term.

I note that during 2007-08, average wholesale prices rose significantly higher than the efficient level expected in a competitive market which may be indicative of generators using pricing power to raise wholesale prices above efficient levels. The South Australian Government considers that the draft determination and reports of the consultants provide insufficient analysis of the factors which contributed to the price outcomes of 2007-08, and the potential for them to be replicated in the future. I would appreciate further consideration of these issues in the final determination.

Further, I am advised that CEG's report to the AEMC highlighted evidence in South Australia that suggested capacity is being frequently withheld to drive up prices and that vertical integration may be creating a barrier to entry by non-vertically integrated generators. As such, CEG have advised the AEMC that ongoing monitoring of wholesale prices in South Australia would be beneficial, as well as ongoing review of the factors potentially inhibiting competition, such as vertical integration and contract liquidity.

It would therefore seem appropriate that the AEMC give further consideration to the potential for, and practical application of, additional monitoring of wholesale prices and barriers to entry in South Australia and other jurisdictions with similar circumstances. For example, the AEMC should specify an appropriate monitoring framework and determine an appropriate market institution to undertake such a monitoring role. The final determination should make a more preferable Rule to implement the framework if necessary.

Should you have any questions about this submission, please contact Mr Vince Duffy, Executive Director, Energy Markets and Programs Division of DMITRE on (08) 8204 1724.

Yours sincerely



Hon Tom Koutsantonis MP

Minister for Mineral Resources and Energy

29th July 2012