



Victoria's Electricity Distribution Network Service Providers – Application for authorisation AA1000668

Interim authorisation decision

8 May 2024

Decision

1. The Australian Competition and Consumer Commission (the **ACCC**) has granted interim authorisation in respect of the application for authorisation AA1000668, lodged by AusNet Electricity Services Pty Ltd, CitiPower Pty Ltd, Jemena Electricity Networks (Vic) Ltd, Powercor Australia Ltd and United Energy Distribution Pty Ltd (the **Applicants**) on 19 April 2024.
2. Interim authorisation is granted to enable the Applicants and future Victorian electricity distributors to make and give effect to arrangements that provide that all Victorian electricity distributors will require civil contractors to be 'interim approved', 'pre-qualified' or 'accredited' before being permitted to bid in tenders for performing, or to perform, underground civil works on network electrical infrastructure, for either Victorian electricity distributors or third parties (the **Conduct**).
3. The exception to this requirement is that civil contractors that are not interim approved, pre-qualified or accredited under the scheme can still perform underground electricity infrastructure works, however are required to have the works visually inspected by an approved auditor before backfilling or cabling works can be undertaken.
4. Civil contractors are 'interim approved', 'pre-qualified' or 'accredited' where they have met the scheme requirements specified by the Applicants. Civil contractors achieve full accreditation if they have:
 - completed the relevant application forms
 - an audited¹ management system that is based on Australian Standards and ISO standards on safety, quality and environmental management (ISO 9000, ISO 14001 and ISO 4501)
 - one or more personnel who have completed an approved electrical infrastructure civil works industry training course,² and
 - submitted a copy of the open trench audit report.
5. The Conduct relates only to underground civil works, not overhead construction works. Underground civil works include work related to electrical infrastructure projects such as trenching, installing conduits, backfilling, installation of cover slabs, installation of marker tape and underground cable hauling.

¹ Auditing is performed by a recognised accreditation bodies - organisations that are certified by [JASANZ](#), of which there are currently 23 in Victoria.

² There are currently 14 approved training providers in Victoria: <http://vedn.vesi.com.au/search/searchRTO.php?go>

- Interim authorisation commences on 15 May 2024 and remains in place until it is revoked or the date the ACCC's final determination comes into effect.

Background

- Transmission networks link to generators and transport high voltage electricity to major load centres. Electricity is then injected from points along the transmission network into distribution networks (consisting of the poles and wires, substations, transformers, switching equipment, and monitoring and signalling equipment) that step down the voltage for safe delivery to consumers.³
- The Applicants are the 5 electricity distribution network service providers in Victoria licensed pursuant to the *Electricity Industry Act 2000* (Vic):

- AusNet Electricity Services Pty Ltd
- CitiPower Pty Ltd
- Jemena Electricity Networks (Vic) Ltd
- Powercor Australia Ltd and
- United Energy Distribution Pty Ltd

(the **Applicants**). Each of the Applicants operates their respective electricity distribution network within designated territories in Victoria.

The application for authorisation

- The Applicants seek authorisation to make and give effect to the arrangements outlined in paragraphs 2 to 5 above with each other and any future Victorian electricity distribution network service providers, namely the continuation of their joint accreditation scheme for contractors performing underground civil works which has previously been authorised by the ACCC in 2014 and 2009.
- The Applicants have sought authorisation for 10 years.

The authorisation process

- Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (Cth) (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

- Section 91 of the Act allows the ACCC, where it considers it appropriate, to grant interim authorisation. This allows the parties to engage in the Conduct while the ACCC is considering the substantive application.
- The Applicants requested interim authorisation on the basis that:
 - the ACCC is unlikely to have completed its assessment of their substantive application by the expiry of the existing authorisation in May 2024 (due to late lodgement of the application on 19 April 2024)

³ Australian Energy Regulator, [State of the Energy Market 2023](#), page 80.

- interim authorisation will avoid any lapse in the protection provided by authorisation between the expiry of the existing authorisation and completion of the ACCC's assessment of the substantive application
- interim authorisation will ensure that the benefits of the Conduct will continue and will avoid risks, disruption, costs and confusion that are likely to result if the Applicants are required to suspend the Conduct while awaiting a final determination from the ACCC
- absent interim authorisation, in the next 4 to 6 months there are 51 civil works contractors whose accreditations will be due for renewal and who may be unable to get re-accredited if accreditation bodies discontinue their services (or who choose not to invest in reaccreditation if the scheme is non-operational)
- absent interim authorisation, training providers won't be able to confirm that training services will lead to a recognised accreditation that is state-wide
- absent interim authorisation, the Applicants will need to adopt their own approaches to verifying the qualifications of civil contractors and the standards of their works within their own territories. Varying approaches across the state will cause additional administration and costs, confusion and disruption for participants in the scheme which could lead to delays in ongoing civil works projects
- interim authorisation won't require any change to the industry – it will maintain the status quo
- interim authorisation will give certainty to industry participants around their accreditations and will enable them to continue to provide their services on the same basis.

Consultation

14. The ACCC has not conducted a public consultation process in respect of the request for interim authorisation. This is due to the urgent nature of the Applicants' request for interim authorisation to avoid any lapse in the protection provided by authorisation between the expiry of their existing authorisation (A91393 – A91395) on 15 May 2024 and completion of the ACCC's assessment of their substantive application.
15. The ACCC is now seeking submissions on the substantive application for authorisation and will further examine the public benefits and detriments likely to result from the Conduct during that consultation process. Further information in relation to the application for authorisation, including any public submissions received by the ACCC as this matter progresses, may be obtained from the ACCC's website www.accc.gov.au/authorisations.

Reasons for decision

16. In granting interim authorisation, the ACCC considers that:
 - Interim authorisation is unlikely to alter the competitive dynamics of the market, as it will maintain the status quo with an accreditation scheme that has been widely accepted as beneficial by industry participants since 2009.
 - There is urgency to provide interim authorisation to provide certainty to civil contractors, accreditation bodies, training providers, and other industry participants that their accreditations will not be discontinued pending the ACCC's final determination.
 - Interim authorisation is likely to avoid disruption to the industry and to avoid delays involved in the introduction of new, separate (and potentially varying) accreditation schemes between the Applicants' different distribution networks.

- Interim authorisation will avoid the additional administrative, compliance and financial burden on civil contractors likely to be involved in having to obtain separate accreditations with each of the Applicants (for civil contractors who work across the multiple territories).

Reconsideration of interim authorisation

17. The ACCC may review the interim authorisation at any time. The ACCC's decision in relation to the interim authorisation should not be taken to be indicative of whether or not the substantive authorisation will be granted.