

# Released under FOI

**Petreski, Sonya**

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**From:** Fox, Gavin  
**Sent:** Thursday, 14 May 2020 1:04 PM  
**To:** Fox, Gavin  
**Subject:** AER GM comments on letter structure [DLM=Sensitive]

**Sensitive**

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**From:** Adams, Peter <peter.adams@aer.gov.au>  
**Sent:** Tuesday, 18 July 2017 4:50 PM  
**To:** Fox, Gavin <gavin.fox@aer.gov.au>  
**Cc:** Conboy, Paula <paula.conboy@aer.gov.au>; Mayne, Edward <edward.mayne@aer.gov.au>  
**Subject:** Frydenberg response [DLM=Sensitive]

Gav - as discussed, Paula suggests we start drafting something for consideration

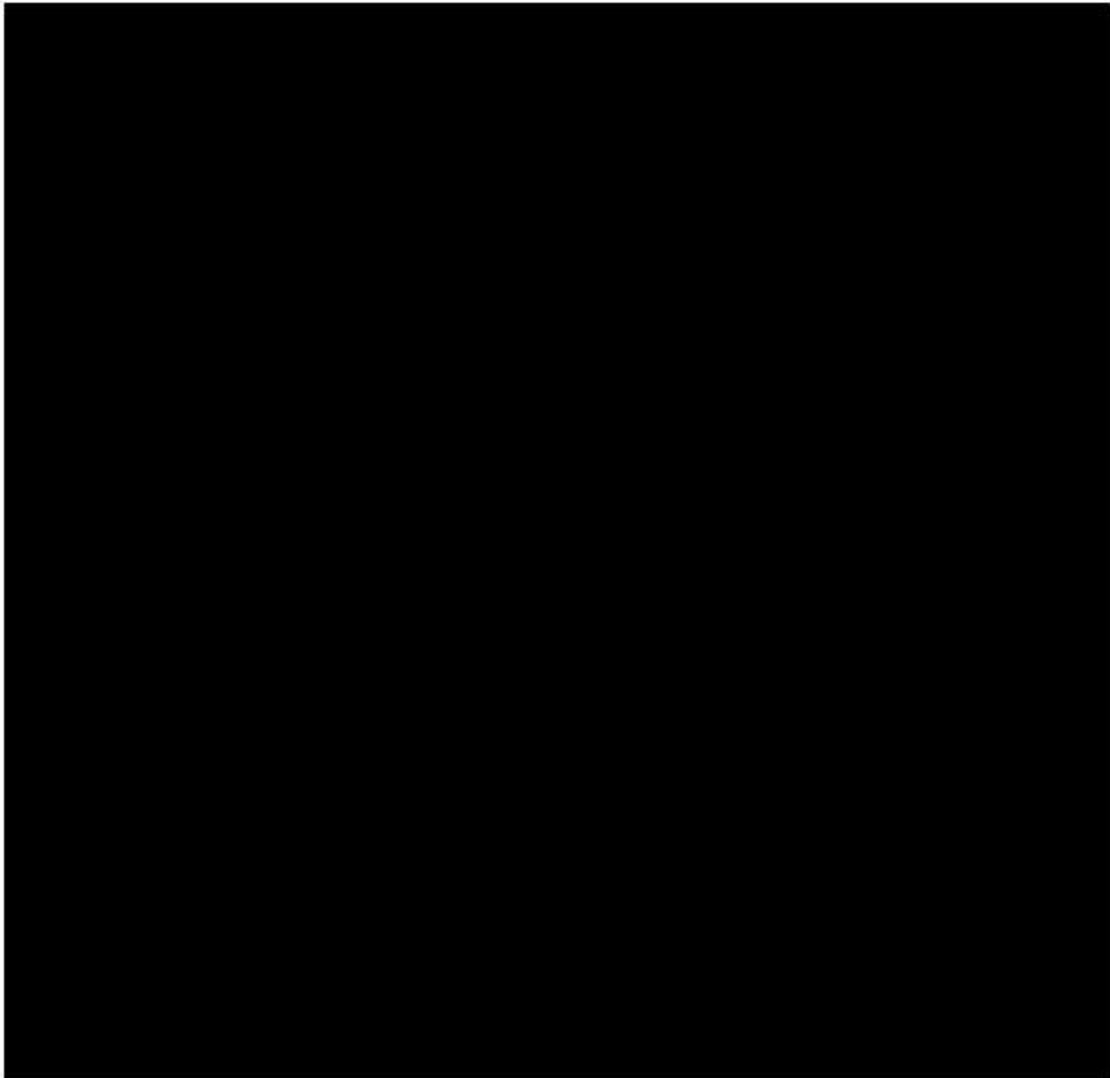
The response should cover a few of the following grab bag of points – no particular order

- "Competition will only ever deliver better outcomes for consumers if appropriate structural arrangements are established first – this was the principle behind transforming the industry in the 90's and holds equally today. Where structural impediments create significant market power, no form of energy market which relies on competition will be fully effective."
- "It is clear that 65% of the capacity in Queensland rests with the Queensland Government across 2 portfolios (CS Energy 35% and Stanwell 30%). The bidding and rebidding strategies of these generators will inevitably have a significant impact on outcomes in Queensland, at almost any level of demand. If the generators are incentivised to increase profit, without competitive tension in the region, they certainly have the capacity to do so."
- Pricing capacity at high prices is not a breach of the Electricity Rules. Our enforcement powers extend to certain types of bidding and rebidding behaviour but only in circumstances where we find that the information provided to the market by generators is false or misleading – a misrepresentation. There are currently no constraints (under the NER nor CCA) on the way generators bid their capacity into the market in the first instance.
- "Economic withholding is not a breach of the Electricity Rules. Scarcity prices are a valuable signal in an energy-only market. The rules are designed around an expectation that if high prices persist, competitive pressure will see profits being reduced over time either through a competitive response of existing players or new investment. Where a dominant player(s) can influence prices without such pressure - the problem will persist."
- A number of improvements to our powers is possible including:
  - To fulfil our effective competition role access to information about the contract markets is essential to understand drivers of behaviour and claims related to barriers to entry – this could be a recommendation from the ACCC review
  - To conduct investigations thoroughly a power to gather oral evidence (equivalent to the ACCC's 155 powers is essential - as recommended in the enforcement review
    - Peter Toy noted

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Other stuff



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**From:** Macfarlan, Meg  
**Sent:** Tuesday, 18 July 2017 3:17 PM  
**To:** Conboy, Paula; Adams, Peter; Sims, Rod; Davidson, Elise  
**Subject:** RE: Comments from the AER regarding bidding and rebidding by Queensland GOCs [DLM=Sensitive]

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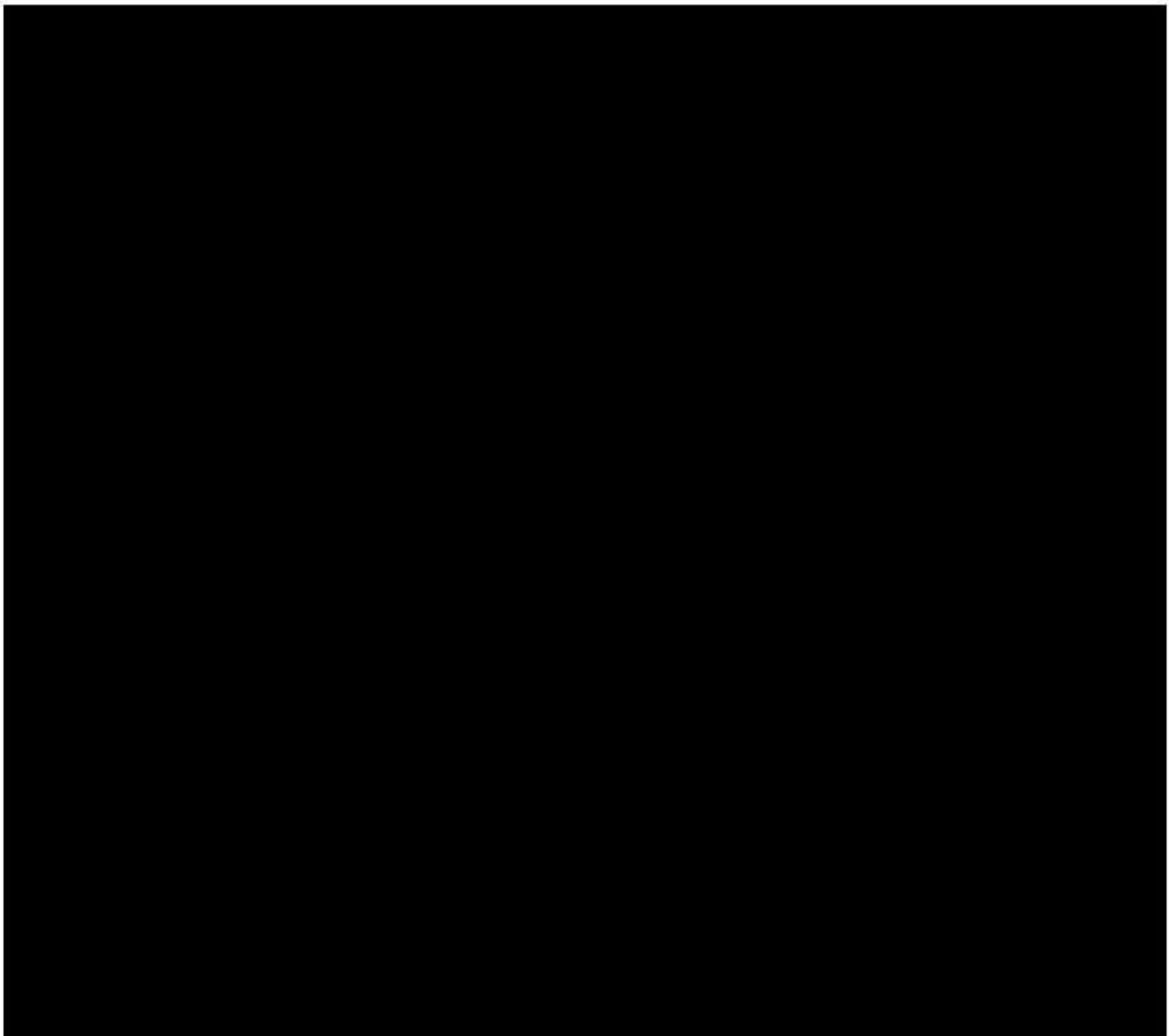
Regards,

Meg

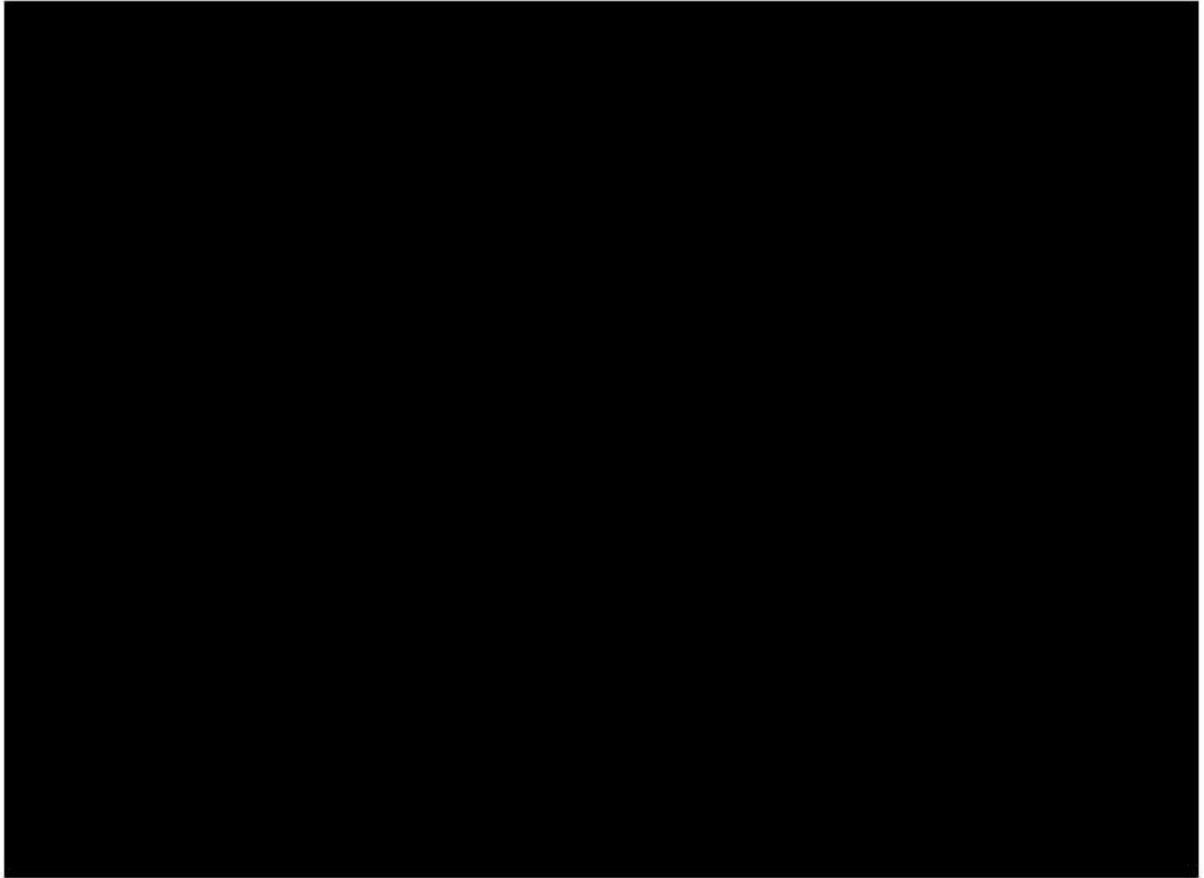
Meg Macfarlan  
Assistant Director, Media  
Australian Competition & Consumer Commission  
Level 35 | 360 Elizabeth Street Melbourne 3000 | [www.accc.gov.au](http://www.accc.gov.au)  
T: 03 9290 1836 | M: 0466 137 041

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**From:** Conboy, Paula  
**Sent:** Tuesday, 18 July 2017 1:38 PM  
**To:** Adams, Peter; Macfarlan, Meg; Sims, Rod; Davidson, Elise  
**Subject:** RE: Comments from the AER regarding bidding and rebidding by Queensland GOCs [DLM=Sensitive]  
**Importance:** High



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Peter Adams

General Manager | Wholesale Markets  
**Australian Energy Regulator**  
Level 38 The Tower 360 Elizabeth St. Melbourne  
T: + 61 3 9290 1465 | M: 0403 430858 | [peter.adams@aer.gov.au](mailto:peter.adams@aer.gov.au)  
[www.energymadeeasy.com.au](http://www.energymadeeasy.com.au) | [www.aer.gov.au](http://www.aer.gov.au)



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The AER acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.