



**COMMONWEALTH OF AUSTRALIA**  
*Competition and Consumer Act 2010 (Cth)*

**IN THE AUSTRALIAN COMPETITION TRIBUNAL**

File No: ACT 1 of 2019  
Re: Re Application for authorisation  
AA1000439 lodged by Australian Energy  
Council, Clean Energy Council, Smart  
Energy Council and Energy Consumers  
Australia in respect of the New Energy Tech  
Consumer Code  
Applicant: Flexigroup Limited [ACN 122 574 583]

**DIRECTIONS**

TRIBUNAL: Justice O'Bryan (Deputy President)  
DATE OF ORDER: 4 February 2020  
WHERE MADE: Melbourne

**THE TRIBUNAL DIRECTS THAT:**

1. Any document required to be filed by these orders must also be served on:
  - (a) the Applicant
  - (b) the Australian Energy Council, Clean Energy Council, Smart Energy Council and Energy Consumers Australia (together, the Authorisation Applicants)
  - (c) any intervener  
  
(the Applicant, the Authorisation Applicants, and interveners are together referred to as the parties)
  - (d) the Australian Competition and Consumer Commission (Commission).



### **Third parties and applications to intervene**

2. Any application for leave to intervene in these proceedings, and any material relied on in support of any application, be filed and served on or before Friday, 21 February 2020.
3. Within 5 days of the date of these Orders, the Commission is to give written notice of this application to all persons who made submissions to the Commission in connection with its Authorisation advising them of the terms of Order 2.
4. Any submissions responding to an application to intervene be filed and served (including on the applicant for intervention) on or before Friday, 28 February 2020.
5. The Tribunal will determine on the papers any application made under Order 2, unless any person notifies the Tribunal by 4:00pm on Wednesday, 4 March 2020 that they require a hearing to resolve the application.

### **Information given to Commission**

6. The Commission is to file and serve an index and copies of all non-confidential versions of submissions made to the Commission in connection with the making of its Authorisation Determination on or before Friday 14 February 2020.
7. The matter be listed for any application by a third party for any confidentiality order in respect of submissions, or parts of submissions, made to the Commission and excluded from the public register in connection with the making of its Authorisation Determination at 9am on Tuesday, 25 February 2020.
8. Subject to any further order, the Commission is to file and serve a consolidated index of submissions and copies of all, or parts of submissions, made to the Commission and excluded from the public register in connection with the making of its Authorisation Determination by Tuesday, 3 March 2020.



### **Statement of Facts, Issues and Contention**

9. The Applicant is to file and serve a Statement of Facts, Issues and Contention on or before Friday, 14 February 2020.
10. The Authorisation Applicants are to file and serve a Statement of Facts, Issues and Contention on or before Friday, 6 March 2020.
11. Each intervener is to file and serve a Statement of Facts, Issues and Contention on or before Friday, 13 March 2020.
12. The Commission is to file its Statement of Facts, Issues and Contention on or before Friday, 20 March 2020.

### **Issues list**

13. To assist interested third parties who may make a submission under Order 14, the Commission is to file and serve an Issues List on or before Friday, 20 March 2020, which the Tribunal will publish on its register, identifying key issues, as identified by the Commission, raised by the Application.

### **Interested Third Party materials**

14. Interested third parties are to file and serve any submissions and supporting material to which the Tribunal may have regard on or before Friday, 3 April 2020.

### **Further Information**

15. The Commission has leave to provide the Tribunal at any time up to Thursday, 30 April 2020 details of any information the Commission suggests the Tribunal seek from the parties or any other person pursuant to ss 90(6) and 102(1) of the *Competition and Consumer Act 2010* (Cth), such requests to be notified to all parties.



## **Evidence**

16. The Applicant is to file and serve any proposed evidence on or before Tuesday, 7 April 2020.
17. The Authorisation Applicants are to file and serve any proposed evidence on or before Tuesday, 21 April 2020.
18. Each intervener is to file and serve any proposed evidence on or before Tuesday, 21 April 2020.
19. The Commission is to file and serve any proposed evidence on or before Tuesday, 28 April 2020.
20. The Applicant is to file and serve any proposed evidence in reply on or before Tuesday, 5 May 2020.
21. The Authorisation Applicants are to file and serve any proposed evidence in reply on or before Tuesday, 5 May 2020.
22. The Applicant is to serve a draft Hearing Book Index listing all documents proposed to be relied upon at the hearing on or before Friday, 8 May 2020.
23. The Authorisation Applicants and any intervener are to serve a list of proposed amendments to the Hearing Book Index on or before Tuesday, 12 May 2020.
24. The Commission is to serve any proposed amendment to the Hearing Book Index on or before Friday, 15 May 2020.
25. The Applicant must file and serve the Hearing Book (including its contents) on or before Tuesday, 19 May 2020.
26. On or before Friday, 22 May 2020, the parties and the Commission file an agreed document which identifies:
  - (a) any witnesses to be cross-examined; and
  - (b) any objection to evidence, with objections being identified with precision.

### **Submissions and authorities**

27. On or before Wednesday, 13 May 2020, the Applicant is to file and serve an outline of submissions with a list of authorities.
28. On or before Friday, 22 May 2020, the Authorisation Applicants are to file and serve an outline of submissions with a list of authorities.
29. On or before Friday, 22 May 2020, any intervener is to file and serve outlines of submissions with a list of authorities.
30. On or before Thursday, 28 May 2020, the Commission is to file and serve any outline of submissions with any list of authorities.

### **Hearings**

31. The proceeding be listed for a second case management conference at 9am on Thursday, 7 May 2020.
32. The proceeding be listed for a third case management conference at 9am on Tuesday, 26 May 2020.
33. The proceeding be listed for hearing in Melbourne commencing no earlier than Monday, 1 June 2020 with an estimate of no more than 3 hearing days.

### **Other Matters**

34. The parties, the Commission, and any interested person have liberty to apply for further directions.



A handwritten signature in blue ink, consisting of a stylized 'A' followed by a 'U'.

REGISTRAR  
Australian Competition Tribunal