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3 October 2019

Dr Andrew Gaczol
Senate Economics Legislation Committee
PO Box 6100, Parliament House
Canberra ACT 2600

Submitted online

Dear Andrew

Re: Senate Economics Legislation Committee - Invitation to submit to the inquiry into the Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2019 [Provisions]

Thank you for the opportunity to provide a submission to the Inquiry into Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2019 [Provisions]. This letter outlines ATCO's submission to the inquiry.

ATCO would like to emphasise the following key points:

- ATCO supports the proposed new compulsory information gathering and sharing powers for the AER, along with the proposed new functions related to the regulation of retail electricity prices by the Australian Energy Regulator (AER), including replacing the standing retail offer, and details provided about any discounts offered by retailers. These proposals would ensure consistency with recommendations from the Australian Consumer and Competition Council's (ACCC) Retail Electricity Pricing Inquiry (REPI);
- ATCO submits that the proposed "aggravated case" remedies (that is, recommendations for a divestiture order by the Federal Court) is unprecedented in Australia and is an extreme measure in the context of the findings of the ACCC REPI report. The proposed divestiture order remedy raises a number of issues relating to constitutional powers, which ATCO submits require separate consideration as part of any review of existing market misconduct powers and remedies in Australia, such as those set out in the *Competition and Consumer Act 2010* (Cth). ATCO notes that the REPI report included consideration of a divestiture remedy, however the ACCC did not recommend including it. ATCO supports the ACCC REPI report's wider recommendations which provide sufficient disincentive to breach the proposed rules and are unlikely to result in any unintended market consequences such as reduced investment in much needed energy infrastructure; and
- Consistent with submissions made to the ACCC during the east coast gas market inquiry, ATCO recommends that existing competition law tests and remedies for misconduct are currently sufficient, and that rule changes could be made that augment those competition law tests and remedies without significant market disruption.


ABOUT ATCO

ATCO has been proudly operating in Australia and providing employment opportunities for more than half a century. ATCO is a customer-focussed global company that develops, builds, owns and operates a range of energy infrastructure assets, supporting residential, business and commercial consumers. ATCO is committed to investing in its people, innovation and technology to drive leading-edge application based research.

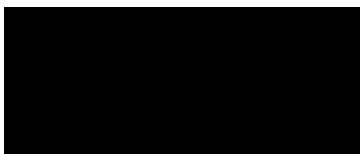
In Australia, ATCO:

- owns and maintains two non-regulated gas distribution networks in Albany (LPG) and Kalgoorlie (natural gas), together with the largest (Mid-West and South-West) gas distribution network in Western Australia, servicing over 760,000 connections through more than 14,000 km of natural gas pipelines and associated infrastructure;
- owns an exempt retailer (Source Energy Co) in the Wholesale Electricity Market that provides electricity to around 500 embedded network customers in strata developments through a combination of solar photovoltaic systems, grid purchases and battery storage;
- owns and operates two power generation facilities (a joint-owned facility in Adelaide and a wholly-owned facility in Karratha) with a combined capacity of 266 MW;
- is drawing on its established expertise in natural gas to explore the future role of hydrogen through the research and development of ATCO's Clean Energy Innovation Hub (an embedded hybrid microgrid system that incorporates renewable solar generation, battery storage, natural gas backup generation); and
- manufactures and delivers modular building solutions to a diverse group of customers.

ATCO's Australian businesses are part of the worldwide ATCO Group with approximately 6,000 employees and assets of CAD \$24 billion. ATCO is engaged in pipelines and liquids (natural gas transmission, distribution and infrastructure development, energy storage, and industrial water solutions); electricity (electricity generation, transmission, and distribution); retail energy; and structures and logistics.

If you have any questions or would like to discuss any of these issues further please contact me or  General Manager, Human Resources & Corporate Affairs.

Yours sincerely



J.D. Patrick Creaghan
Managing Director and Chief Operating Officer
ATCO Australia