



Australian
Competition &
Consumer
Commission

23 Marcus Clarke Street
Canberra ACT 2601

GPO Box 3131
Canberra ACT 2601

Our ref: #1002205
Contact officer: Will Herron
Contact phone: 02 6243 1244

tel: (02) 6243 1111
fax: (02) 6243 1199

20 March 2017

www.accc.gov.au

JS

Via email to: foi+request-3214-02eecb64@righttoknow.org.au

Dear JS

Access refusal – documents do not exist

I refer to your email dated 9 March 2017 in which you have requested access, under the *Freedom of Information Act 1982* (Cth), to:

'Under FOI I seek access to a document or documents that contain details of the arrangement or proposed arrangement between Mr Sims and Dr Nahan (or the WA Government) whereby Mr Sims will regulate the business [of Western Power] in the future.'

Decision

I have decided to refuse your request under s.24A(1) of the Act on the basis that the document does not exist.

I am authorised under s.23 of the Act to make this decision.

Reasons for decision

Section 24A(1) of the Act relevantly provides as follows:

An agency or Minister may refuse a request for access to a document if:

- (a) all reasonable steps have been taken to find the document; and
- (b) the agency or Minister is satisfied that the document:
 - (ii) does not exist.

Therefore, we may refuse a request for access to a document if we take all reasonable steps to find that document and we are satisfied that the document does not exist.

The ACCC took the following steps to locate the document:

- A thorough search of our databases to locate any information or documents that relate to your request;
- Confirmation with relevant staff that no such document exists;

Based on the nil results of these steps, I conclude that the requested document does not exist within the records of the ACCC, which encompasses all records pertaining to the Australian Energy Regulator (AER).

I am advised that the previous Western Australian Government was planning to transfer responsibility for economic regulation of Western Power to the AER. Bills to adopt the national energy legislation were introduced into WA Parliament mid-2016 but were not passed. Further information regarding the proposed transfer of regulatory functions to the AER can be found on the WA Public Utilities Office website:

http://www.finance.wa.gov.au/cms/Public_Uilities_Office/Electricity_Market_Review/Network_Regulation.aspx

Rights of review

Your rights of review are set out in Attachment A.

Yours sincerely



Will Herron

FOI Coordinator
ACCC Legal Group

Sent by email 17/03/2017