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Our ref: #1002210
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Contact phone: 02 6243 1244

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

4 August 2017

www.accc.gov.au

JS

Via email to: foi+request-3216-6866dde6@righttoknow.org.au

Dear JS

Decision on freedom of information request

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

'documents referred to in an article published in the The Sunday Mail (Qld) on January 22, 2017 and apparently already released under FOI.'

Decision

I have decided to release these documents to you in accordance with the Schedule (Attachment A). Your review rights are set out in Attachment B.

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

In relation to document number 1 being an email from Paula Conboy dated 24 March 2015, I consulted with Hugh Grant regarding the release of that document. As part of that consultation, Hugh Grant submitted that the content of the document suggesting that he had been quite scathing of Powerlink was not correct. The document has been annotated to note that submission.

Understanding the schedule

In relation to the Schedule, please note:

- (a) Column 1 of the Schedule refers to each document by a document number created for the purpose of processing this request;
- (b) Column 2 of the Schedule gives, where applicable, the name and organisation of the author of the document;
- (c) Column 3 of the Schedule gives, where applicable, the name and organisation of the addressee of the document;
- (d) Column 4 of the Schedule shows the date appearing on the document;

- (e) Column 5 of the Schedule briefly describes the document or, where applicable, each part of a composite document;
- (f) Column 6 of the Schedule gives the number of pages of the document or, where applicable, each part of a composite document;
- (g) Column 7 of the Schedule shows my decision on whether, and what form, access has been granted to the document, where applicable;
- (h) Column 8 of the Schedule sets out my findings on material questions of fact and the reasons for my decision. The subsection or paragraph referred to is the subsection or paragraph of the Act relied upon in support of each claim of exemption from disclosure. I have outlined my reasons for decision in attachment B.

Charges

As stated in our letter to you dated 23 June 2017, we decided to waive the charges associated with processing your FOI request.

Enclosed are copies of the 11 documents which were 'Granted' as per the Schedule.

Publication of documents released under FOI

**** DISCLOSURE LOG REQUIREMENT APPLIES ****

In accordance with s.11C of the Act, I have decided to publish the documents released on the ACCC's Disclosure Log. This will occur within ten business days of the documents being released to you.

Yours sincerely



David Crouch

Principal Lawyer
ACCC Legal Group

Sent by email 4/08/2017

ATTACHMENT A
Schedule of documents

Doc No	Author	Addressee	Date	Description	No of folios	Access	Findings, Reasons and Brief Descriptio
1	Paula Conboy AER	Cristina Cifuentes, James Cox ACCC	24.3.2015	Email Meeting with CEO, Powerlink	1	Granted	
2	Michelle Groves AER	Sebastian Roberts AER	25.3.2015	Email Powerlink CCP	1	Granted	
3	Michelle Groves AER	Paula Conboy AER	30.3.2015	Email Re: CCP4 and Powerlink	4	Granted	
4	Michelle Groves AER	Hugh Grant ResponseAbility	31.3.2015	Email Re: CCP4 and Powerlink	5	Granted	
5	James Cox AER	Michelle Groves & Ors AER	1.4.2015	Email Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink	2	Granted	
6	Cristina Cifuentes ACCC	Michelle Groves & Ors AER	1.4.2015	Email Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink	2	Granted	
7	Michelle Groves AER	Paula Conboy AER	7.4.2015	Email Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink	4	Granted	

Doc No	Author	Addressee	Date	Description	No of folios	Access	Findings, Reasons and Brief Description
8	Hugh Grant ResponseAbility	Michelle Groves AER	8.4.2015	Email Powerlink CCP subpanel	2	Granted	
9	Hugh Grant ResponseAbility	David Headberry, Lynley Jorgensen	8.4.2015	Email Powerlink CCP subpanel	2	Granted	
10	Merryn York Powerlink	Michelle Groves AER	13.4.2015	Email CCP sub panel membership	2	Granted	
11	David Headberry	Hugh Grant & Ors	13.4.2015	Email AER Decision Regarding Perceived Conflict of interest	2	Granted	

ATTACHMENT B

INFORMATION ON RIGHTS OF REVIEW

1. ACCC Internal Review

Under s.54 of the FOI Act, you can apply for an internal review of my decision by writing to the ACCC within 30 days of receipt of this letter indicating that you seek an internal review of this decision.

If you make an application for review, another officer of the ACCC will review and make another decision in regards to these documents.

There is no charge payable for requesting an internal review. No particular form is required to apply for review. You will need to set why the decision should be changed.

Please send any correspondence to:

FOI Coordinator

Australian Competition & Consumer Commission

GPO Box 3131

Canberra ACT 2601

If you make an application for internal review and we do not make a decision within 30 days or such further period as the IC allows, the original decision is considered affirmed. In such circumstances, you can seek review of our deemed decision by the IC.

2. Review by the Information Commissioner

You may ask for a review of a decision by the Australian Information Commissioner (IC). You do not have to go through our internal review process first for this process. If you do choose to seek an internal review, you can still seek IC review for the internal review decision if we refuse access to the documents.

You must apply in writing and you can lodge your application in one of the following ways:

Online: www.oaic.gov.au

Post: GPO Box 5218, Sydney NSW 2001

Fax: +61 2 9284 9666

Email: enquiries@oaic.gov.au

If you disagree with the Information Commissioner's review decision, you can appeal to the Administrative Appeals Tribunal (AAT).

The Tribunal is a completely independent review body with the power to make a fresh decision. A filing fee of \$861.00 (as at 1 July 2014) should accompany your application, unless you are granted legal aid or you come within an exempt category of persons (check with the Tribunal registry in your State). The Registrar or Deputy Registrar may waive the fee on the ground that its payment would impose financial hardship on you. The fee may be refunded if you are successful.

3. Complaint to the Information Commissioner

You may request the Information Commissioner to investigate action taken by the ACCC in relation to this Freedom of Information request. There is no fee for making a complaint. The Information Commissioner will consider your complaint and, if appropriate, conduct an investigation into it. Any investigation will be completely independent.

You must lodge your complaint in writing and do so in one of the following ways:

Online: www.oaic.gov.au

Post: GPO Box 5218, Sydney NSW 2001

Fax: +61 2 9284 9666

Email: enquiries@oaic.gov.au

Released under FOI



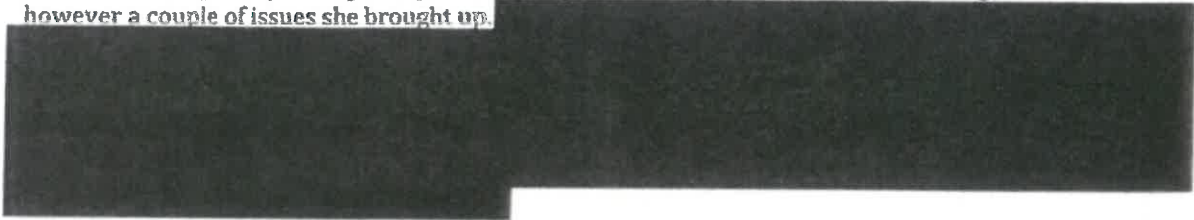
Jorgensen, Lynley

From: Burns, Jacqui
Sent: Wednesday, 2 November 2016 1:06 PM
To: Jorgensen, Lynley
Subject: FW: Powerlink [SEC=UNCLASSIFIED]

From: Conboy, Paula
Sent: Tuesday, 24 March 2015 2:20 PM
To: Cifuentes, Cristina; Cox, James
Subject: Powerlink [SEC=UNCLASSIFIED]

Good afternoon

I met with Merryn York, CEO, Powerlink when she was in Melbourne last Friday. The meeting was at her request and was meant to be a meet and greet. I had advised her that my preference was to discuss Powerlink's proposal (due beginning of next year) when all the board members were together. There were however a couple of issues she brought up.



Apparently Hugh Grant has been assigned to the CCP subpanel on the Powerlink proposal. Powerlink is not comfortable with this arrangement and I have to admit neither am I. **Hugh Grant (as you may know) is a former employee of Powerlink and is quite scathing of the company.** I would rather not have him assigned to that subgroup. While not having to adhere to the same strict rules as us, I think the conflict of interest and perception of bias might undermine the effectiveness of the CCP.

I have asked Michelle to look into replacing him with another member.

FYI

Paula

Accuracy of this highlighted comment is contested by Hugh Grant - see cover letter.

Paula W. Conboy
Chair
Australian Energy Regulator
GPO Box 520, Melbourne 3001
T: +61 03 9290 1419 EA - Chandima Fernando - +61 03 9290 1422

ENERGYMADE
EASYS

energymadeeasy.gov.au | aer.gov.au

Please consider the environment before printing this email

Jorgensen, Lynley

From: Groves, Michelle
Sent: Wednesday, 2 November 2016 10:04 AM
To: Jorgensen, Lynley
Subject: FW: Powerlink CCP [SEC=UNCLASSIFIED]

Cheers
Michelle

From: Groves, Michelle
Sent: Wednesday, 25 March 2015 9:22 AM
To: Roberts, Sebastian
Subject: Powerlink CCP [SEC=UNCLASSIFIED]

Apparently Powerlink are unhappy that Hugh Grant is on their CCP – consider he is conflicted because of his previous role and views. They want a different panel. Paula seems sympathetic to their position. Can we discuss how we manage Hugh off and someone else on.

MG

Michelle Groves
CEO
Australian Energy Regulator
GPO Box 520, Melbourne 3001
T: +61 03 9290 1423 EA – Maddy Wimpole – (03) 9290 1466



energymadeeasy.gov.au | aer.gov.au

 Please consider the environment before printing this email

Jorgensen, Lynley

From: Burns, Jacqui
Sent: Wednesday, 2 November 2016 1:07 PM
To: Jorgensen, Lynley
Subject: FW: Re CCP4 and Powerlink [SEC=UNCLASSIFIED]

From: Groves, Michelle
Sent: Monday, 30 March 2015 7:48 AM
To: Conboy, Paula
Subject: FW: Re CCP4 and Powerlink [SEC=UNCLASSIFIED]

For discussion.

-----Original Message-----

From: Hugh Grant [hugh@aslf.org.au]
Sent: Sunday, March 29, 2015 11:15 PM AUS Eastern Standard Time
To: Groves, Michelle
Cc: 'Jo De Silva'; David Headberry; Jorgensen, Lynley
Subject: Re: Re CCP4 and Powerlink

Michelle

Haven given some thought to this over the past couple of days, it is important to me to outline some key concerns regarding the broader implications, and to suggest how this issue could be resolved.

Firstly, I believe there are 4 key considerations that have broad implications:

1. Powerlink's Conflict of interest Claim is Invalid

As outlined in David's email, I went through this issue in detail with Kurt and the AER's in-house lawyer when I was allocated to the Powerlink sub-panel 19 months ago.

I was assured then that the time lapse would render any conflict of interest claim from Powerlink invalid and unreasonable.

Powerlink has known that I was allocated to their sub-panel for some time now.

Let's be frank about this. Powerlink knows that its conflict of interest claim is invalid. The AER knows that it is invalid. Powerlink's reason for requesting my removal from the panel has nothing to do with conflict of interest. They want me removed because they know that I will subject their revenue proposal to some robust challenges – challenges that they want to avoid at all costs.

It is also very important to note that my departure from Powerlink was very amicable. Powerlink's CEO and Chair both made it very clear to me when I left that I would be welcomed back with open arms if I ever decided to come back to the industry.

I believe that there should be transparent disclosure of Powerlink's conflict of interest claim and the AER's assessment of the claim. I would have no problem with that information being in the public domain. Consumers and other stakeholders should expect no less.

Released under FOI

2. It Would Provide Inappropriate Power to the Networks and Undermine the Legitimacy of the CCP

As outlined by David's email, it is entirely inappropriate for the AER to accede to requests from the networks to change CCP panel membership without very substantive reasons, which in this case do not exist.

If the AER accepts Powerlink's request, it would send a strong signal to the networks that they can dictate to the AER which CCP members are allowed to assess their proposals. That would provide inappropriate power to the networks and undermine the legitimacy of the CCP.

3. It would be Unfair on Other CCP Members

CCP Members have to plan their resource commitments well in advance. Complying with the AER's conflict of interest guideline requires CCP Members to turn down work from other clients' requests for assistance on the relevant resets.

Exposing the AER's commercial commitments to the risk of being overturned at the whim of the networks would place inappropriate commercial risks on CCP members – risks which do not exist with their other clients.

4. Consumer Groups are Likely to Challenge It

I have already interacted with a number of consumer groups on the Powerlink reset. For example, four consumer groups have approached me expressing concerns about Powerlink's proposed capex forecasting approach and the AER's Draft F&A.

Over the past 19 months, I have also turned down various requests from consumer groups to develop their submissions on the Powerlink reset.

Consumer groups will therefore expect me and other CCP members to explain to them why I was removed from the Powerlink reset.

CCP members have devoted extensive effort into developing trusted relationships with consumer groups. It would be inappropriate for the AER to expect CCP Members to support an AER decision over which there has been no transparency, and which they believe to be fundamentally wrong.

Suggested Way Forward

I suggest that we need to seek a sensible way forward that avoids the above negative consequences. I suggest that the first step should involve a chat with me, you and Paula to discuss how this might be resolved.

Following that discussion, I would be happy to have a meeting with the AER and Powerlink to talk through their conflict of interest claim, with a view to identifying how any legitimate concerns can be addressed.

Please be aware that there is no urgency to have this resolved immediately. CCP4 has finalised its response to the Powerlink F&A and there are no CCP4 activities planned for a few weeks, so we do not need to rush this. In the meantime, I will refrain from undertaking any activities on the Powerlink reset.

I will be tied up in a workshop all day tomorrow and most of Tuesday, but at this stage Wednesday to Friday are reasonably good for me.

Regards

Released under FOI

Hugh

Hugh Grant

Executive Director, *ResponseAbility*

Mobile: +61 (0) 448 588 117 Email: hugh.grant@bigpond.com Website: www.responseability.com.au

From: David Headberry <davidheadberry@bigpond.com>

Date: Thursday, 26 March 2015 5:55 PM

To: Lynley Jorgensen <Lynley.Jorgensen@ aer.gov.au>

Cc: "Groves, Michelle" <Michelle.Groves@ aer.gov.au>, Jo De Silva [REDACTED]

Subject: Re CCP4 and Powerlink

Dear Lynley

I have just been advised by Hugh Grant that there has been a complaint/concern expressed from Powerlink CEO Merran Yorke about Hugh's CCP4 involvement in the Powerlink reset and that Hugh should be removed from the CCP4 work related to Powerlink. I am advised that the concern is based on Hugh being an ex-employee of Powerlink and therefore has a conflict of interest.

I understand that Hugh has not been an employee of Powerlink for some 7 years which means he left well before the last reset review, so any intimate knowledge he has of Powerlink is well out of date. I also remember that Hugh raised the issue of his past employment when the whole of CCP discussed the issues of conflict of interest and his past employment with Powerlink was not seen as a problem due to the length of time since his employment there.

That AER assessment of the conflict of interest regarding Hugh's past employment is consistent with what I have seen in other areas. For example, as a director of the Victorian energy ombudsman I can advise that there is a general view that there needs to be a break of at least 3 years between being involved with a supply or demand side entity before being considered sufficiently independent to be acceptable as an ombudsman, so a 7 year break meets this requirement for separation.

I understand that the AER is seriously considering asking Hugh to remove himself as a member of CCP4 for the Powerlink review. In my view this would be inappropriate for a number of reasons.

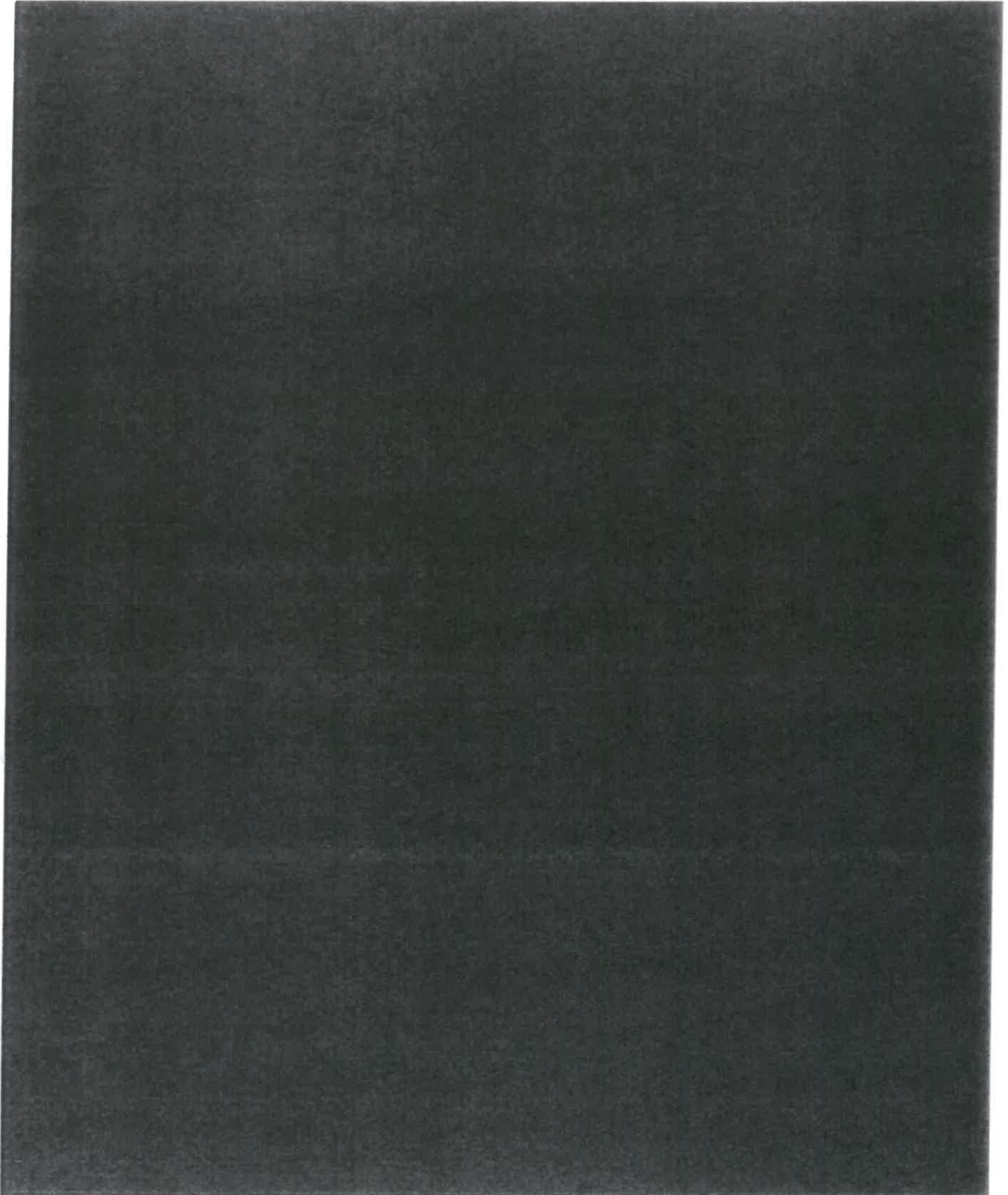
1. The AER decided to appoint Hugh to this subpanel with full knowledge of his past association with Powerlink
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3. In my view, it would be wrong of the AER to accede to any requests from networks for changes in panel membership unless there is a very clear and demonstrable reason (a vague issue of conflict of interest from 7 years ago does not appear to be sufficient) and to implement a change based on a request from a network sends a signal to networks that they have the power to initiate changes of CCP personnel and to all CCP members that doing the job to the best of their ability might result in similar requests for transfers.
4. The experience Hugh has from his CCP6 activities on the resets for TransGrid and Transend will be very useful to the other CCP4 team members and Hugh's loss will probably reduce the effectiveness of CCP4 work on Powerlink
5. Hugh, Jo and I have already commenced to build a working relationship and to develop an approach which uses the skills inherent in the team in the most time efficient manner. An unnecessary change like this just does not make our tasks easier

If there is more to this issue, then I think that it would be appropriate to share this with the whole of CCP

Regards

Released under FOI

David
Headberry Partners P/L
2 Parkhaven Crt, Healesville, Victoria, 3777
Ph: (03) 5962 3225, Fx: (03) 5962 3237, Mb: 0417 397 056



Jorgensen, Lynley

From: Groves, Michelle
Sent: Wednesday, 2 November 2016 9:55 AM
To: Jorgensen, Lynley
Subject: FW: Re CCP4 and Powerrlink [SEC=UNCLASSIFIED]

Cheers
Michelle

From: Groves, Michelle
Sent: Tuesday, 31 March 2015 11:28 AM
To: 'Hugh Grant'
Cc: Jorgensen, Lynley; Roberts, Sebastian
Subject: RE: Re CCP4 and Powerrlink [SEC=UNCLASSIFIED]

Thanks Hugh.

-----Original Message-----

From: Hugh Grant [hugh@aslf.org.au]
Sent: Tuesday, March 31, 2015 11:27 AM AUS Eastern Standard Time
To: Groves, Michelle
Cc: Jorgensen, Lynley; Roberts, Sebastian
Subject: Re: Re CCP4 and Powerrlink [SEC=UNCLASSIFIED]

Michelle

As per my telephone message left with Lynley earlier, I had a call from Merryn York earlier and we had a discussion on the perceived conflict of interest issues.

In essence, we have concluded that whilst there are probably no specific technical conflicts, there could be some potential 'perceived' conflicts.

We've agreed to send you a joint note outlining the outcomes of our discussion later today.

I'll be in and out of meetings for most of today, but will email it to you at some stage today.

Regards

Hugh

Hugh Grant

Executive Director, *ResponseAbility*

Mobile: +61 (0) 448 588 117 | Email: hugh.grant@bigpond.com | Website: www.responseability.com.au

From: "Groves, Michelle" <Michelle.Groves@aer.gov.au>

Date: Monday, 30 March 2015 10:00 AM

To: Hugh Grant <hugh@aslf.org.au>

Cc: Jo De Silva [REDACTED] David Headberry <davidheadberry@bigpond.com>, Lynley Jorgensen

Released under FOI

<Lynley.Jorgensen@aer.gov.au>, "Roberts, Sebastian" <Sebastian.Roberts@accc.gov.au>
Subject: RE: Re CCP4 and Powerrlink [SEC=UNCLASSIFIED]

Thank you for your email Hugh (and David).

I will go back to Powerlink and seek further information about what they perceive as the conflict and engage with you further then.

Hopefully this will be in the next day or so.

cheers

Michelle

From: Hugh Grant [mailto:hugh@asf.org.au]
Sent: Sunday, 29 March 2015 11:15 PM
To: Groves, Michelle
Cc: 'Jo De Silva'; David Headberry; Jorgensen, Lynley
Subject: Re: Re CCP4 and Powerrlink

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From: David Headberry <davidheadberry@bigpond.com>

Date: Thursday, 26 March 2015 5:55 PM

To: Lynley Jorgensen <Lynley.Jorgensen@aer.gov.au>

Cc: "Groves, Michelle" <Michelle.Groves@aer.gov.au>, Jo De Silva [REDACTED]

Subject: Re CCP4 and Powerrlink

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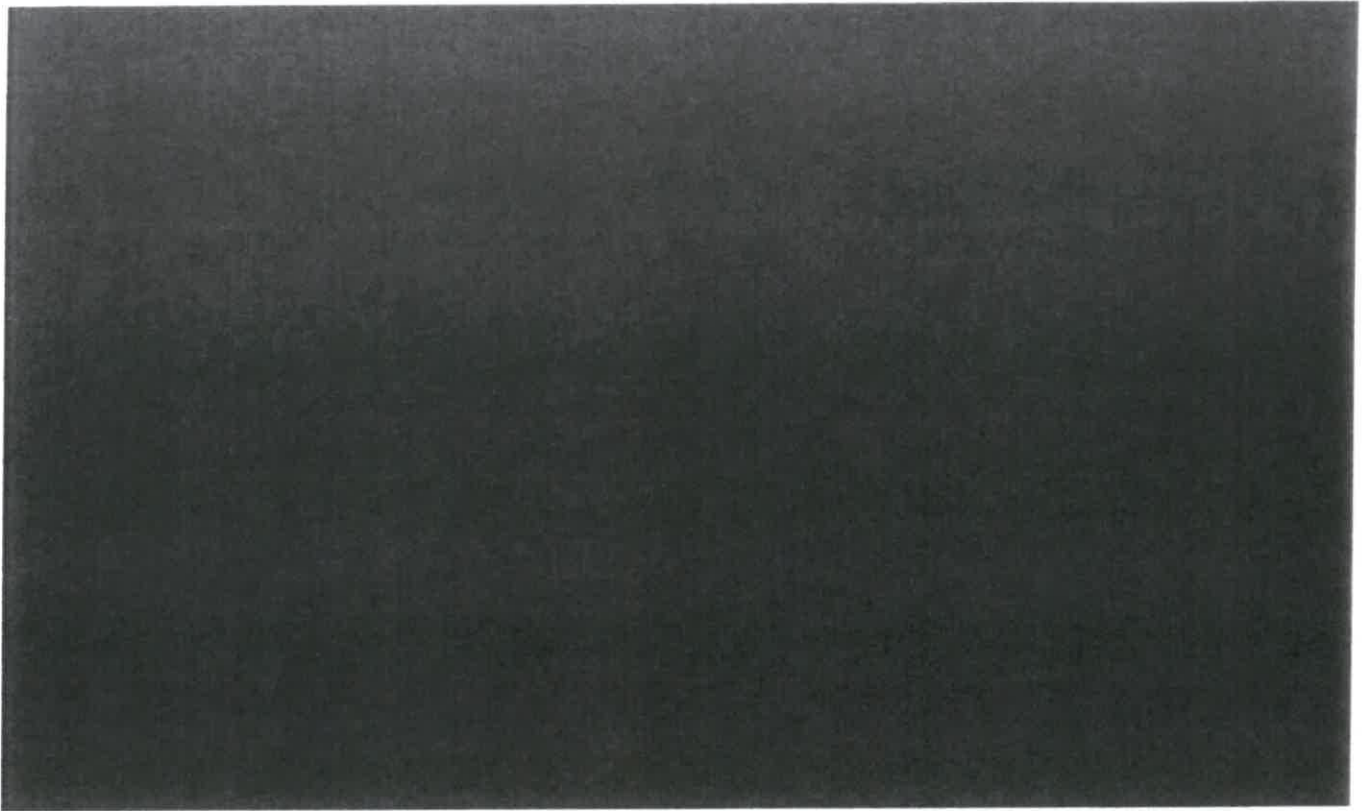
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David
Headberry Partners P/L
2 Parkhaven Crt, Healesville, Victoria, 3777
Ph: (03) 5962 3225, Fx: (03) 5962 3237, Mb: 0417 397 056

Released under FOI



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www.aer.gov.au

IMPORTANT: This email from the Australian Energy Regulator (AER), and any attachments to it, contain information that is confidential and may also be the subject of legal, professional or other privilege. If you are not the intended recipient, you must not review, copy, disseminate, disclose to others or take action in reliance on, any material contained within this email. If you have received this email in error, please let the AER know by reply email to the sender informing them of the mistake and delete all copies from your computer system. For the purposes of the Spam Act 2003, this email is authorised by the AER
www.aer.gov.au

Jorgensen, Lynley

From: Groves, Michelle
Sent: Wednesday, 2 November 2016 9:58 AM
To: Jorgensen, Lynley
Subject: FW: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]

Cheers
Michelle

From: Cox, James
Sent: Wednesday, 1 April 2015 2:51 PM
To: Groves, Michelle; Conboy, Paula; Cifuentes, Cristina
Subject: RE: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]

Hi Michelle

I would prefer us not to ask Hugh to stand down from the Powerlink CCP sub panel:

- There is no conflict of interest;
- Hugh means well but isn't always careful about how he expresses his thoughts. Sometimes I think the businesses are too quick to take offence and should make allowances;
- We don't want to give the impression that that the businesses have a significant amount of influence over the composition of the relevant CCP panel.

I agree that we should send an email to Powerlink advising them of our decision. We should also advise Hugh.

Regards

Jim

James Cox
Board Member, Australian Energy Regulator
Level 20, 175 Pitt Street, Sydney NSW 2000
T: 02 9230 9152

From: Groves, Michelle
Sent: Wednesday, 1 April 2015 2:27 PM
To: Conboy, Paula; Cifuentes, Cristina; Cox, James
Subject: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]
Importance: High

Hello all

As you are aware, Merryn York, CEO of Powerlink, raised with Paula a concern about Hugh Grant being a CCP member for their next reset. She raised two issues – (1) Hugh worked for Powerlink previously and (2) she understood from others that Hugh may have formed a view about Powerlink based on his previous experience.

Staff raised the general concern of Powerlink – ie a potential/perceived conflict for Hugh – with Hugh, with a view to him possibly stepping down from the Powerlink reset.

Released under FOI

Hugh discussed this with the rest of his sub-panel (and the broader CCP) and they raised concerns about the appropriateness of asking Hugh to step down on the basis of the information we had – they challenged whether there was an actual conflict or whether the perception was legitimate.

I then spoke to Merryn, requesting further information from Powerlink on the specifics of her concerns and asked that she put those details in writing (at least an email).

Later, Merryn and Hugh had a conversation about Powerlink's concerns. Following that conversation I received advice from them, that the two areas of potential concern were (1) Hugh continues to have a couple of friends who work at Powerlink and who he irregularly engages with socially and (2) his previous experience from working within Powerlink may not give him the best information on how they operate now – his perceptions may be outdated.

Hugh worked for Powerlink 7 years ago and left on amicable terms. I consider his work for them is sufficiently in the past to not pose an actual or a reasonable perception of conflict. Further, I don't consider him having casual friends who still work there a sufficient reason either – he has disclosed that and in our sector it is not unusual to have friends in many parts of the industry – it is something we all manage all the time.

I also don't consider the fact that he has previous experience of Powerlink to be a conflict or reasonable perception of conflict. He will be required to engage with the current material provided by Powerlink and bring his judgment and expertise to bear in respect of that material. We have no evidence that he will be unable to do that – I asked Merryn for any advice/evidence she had that would suggest that Hugh could not engage with the current way Powerlink operates appropriately. She has not provided anything further.

Hugh would like to continue but will not make a fuss if we ask him to step aside – he wants this settled. He has told me that he will accept whatever decision we make and do his best to convince his CCP colleagues that the decision is the right one.

I do consider that the networks should make a more substantive (and transparent) case if they want to raise an issue of conflict – it is not an insignificant thing. I don't consider that Powerlink has done that and I don't consider that they could claim a reasonable perception of conflict based on the issues they have identified and agreed with Hugh (as set out above). They and Hugh have agreed there is no actual conflict.

I recommend that we advise Powerlink (I would send an email) that we have considered what they have said and we do not consider that we should ask Hugh to step aside.

I would appreciate your thoughts, asap, as we need to get this settled.

Thanks

Michelle

Michelle Groves
CEO
Australian Energy Regulator
GPO Box 520, Melbourne 3001
T: +61 03 9290 1423 EA – Maddy Wimpole – (03) 9290 1466



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Jorgensen, Lynley

From: Groves, Michelle
Sent: Wednesday, 2 November 2016 9:58 AM
To: Jorgensen, Lynley
Subject: FW: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]

Cheers
Michelle

From: Cifuentes, Cristina
Sent: Wednesday, 1 April 2015 2:55 PM
To: Groves, Michelle; Conboy, Paula; Cox, James
Subject: RE: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]

Seems a very thorough approach to the issue and well-reasoned suggestion. There has been good and transparent communication and discussion of issues and agreement that there is no actual conflict of interest. If Powerlink have not been able to substantiate concerns about a potential perception conflict of interest then it would be difficult for us to argue there is one

I'm happy to accept Michelle's proposed approach.

Cristina Cifuentes
Commissioner | ACCC
Australian Competition and Consumer Commission
Level 20 | 175 Pitt St, Sydney, NSW 2000 | <http://www.accc.gov.au>
T: +61 2 9230 3848

 Please consider the environment before printing this email

From: Groves, Michelle
Sent: Wednesday, 1 April 2015 2:27 PM
To: Conboy, Paula; Cifuentes, Cristina; Cox, James
Subject: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]
Importance: High

Hello all

As you are aware, Merryn York, CEO of Powerlink, raised with Paula a concern about Hugh Grant being a CCP member for their next reset. She raised two issues – (1) Hugh worked for Powerlink previously and (2) she understood from others that Hugh may have formed a view about Powerlink based on his previous experience.

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I recommend that we advise Powerlink (I would send an email) that we have considered what they have said and we do not consider that we should ask Hugh to step aside.

I would appreciate your thoughts, asap, as we need to get this settled.

Thanks


Michelle

Michelle Groves
CEO
Australian Energy Regulator
GPO Box 520, Melbourne 3001
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Jorgensen, Lynley

From: Groves, Michelle
Sent: Wednesday, 2 November 2016 10:00 AM
To: Jorgensen, Lynley
Subject: FW: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]

Cheers
Michelle

From: Groves, Michelle
Sent: Tuesday, 7 April 2015 9:47 PM
To: Conboy, Paula
Subject: RE: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]

Thanks. I will go back to Powerlink tomorrow and Hugh. I will email them separately and offer to talk with them if they like.

cheers

Michelle

From: Conboy, Paula
Sent: Tuesday, 7 April 2015 9:45 PM
To: Groves, Michelle
Subject: RE: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]

Agreed. Please proceed on your recommended approach.

I have friends in the industry that I see socially (well I did in Ontario) and I managed it. It's always open to come one to challenge me but thankfully it never did. And I was the adjudicator.

As you have said and Cristina points out it doesn't appear as though Powerlink have been able to substantiate any concerns.

Sincerely,

Paula

Sent with Good (www.good.com)

-----Original Message-----

From: Groves, Michelle
Sent: Tuesday, April 07, 2015 09:39 PM AUS Eastern Standard Time
To: Conboy, Paula

Released under FOI

Subject: FW: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]

I have amalgamated Jim and Cristina's response into the one email for your consideration.

cheers

Michelle

From: Cifuentes, Cristina
Sent: Wednesday, 1 April 2015 2:55 PM
To: Groves, Michelle; Conboy, Paula; Cox, James
Subject: RE: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]

Seems a very thorough approach to the issue and well-reasoned suggestion. There has been good and transparent communication and discussion of issues and agreement that there is no actual conflict of interest. If Powerlink have not been able to substantiate concerns about a potential perception conflict of interest then it would be difficult for us to argue there is one

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Cristina Cifuentes
Commissioner | ACCC
Australian Competition and Consumer Commission
Level 20 | 175 Pitt St, Sydney, NSW 2000 | <http://www.accc.gov.au>
T: +61 2 9230 3848

 Please consider the environment before printing this email

From: Cox, James
Sent: Wednesday, 1 April 2015 2:51 PM
To: Groves, Michelle; Conboy, Paula; Cifuentes, Cristina
Subject: RE: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink. [SEC=UNCLASSIFIED]

Hi Michelle

I would prefer us not to ask Hugh to stand down from the Powerlink CCP sub panel:

- There is no conflict of interest;
- Hugh means well but isn't always careful about how he expresses his thoughts. Sometimes I think the businesses are too quick to take offence and should make allowances;
- We don't want to give the impression that that the businesses have a significant amount of influence over the composition of the relevant CCP panel.

I agree that we should send an email to Powerlink advising them of our decision. We should also advise Hugh.

Regards

Jim

James Cox
Board Member, Australian Energy Regulator
Level 20, 175 Pitt Street, Sydney NSW 2000
T: 02 9230 9152

From: Groves, Michelle
Sent: Wednesday, 1 April 2015 2:27 PM

Released under FOI

To: Conboy, Paula; Cifuentes, Cristina; Cox, James

Subject: Hugh Grant and issues of conflict of interest with respect of him being part of the CCP for Powerlink.
[SEC=UNCLASSIFIED]

Importance: High

Hello all

As you are aware, Merryn York, CEO of Powerlink, raised with Paula a concern about Hugh Grant being a CCP member for their next reset. She raised two issues – (1) Hugh worked for Powerlink previously and (2) she understood from others that Hugh may have formed a view about Powerlink based on his previous experience.

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Hugh worked for Powerlink 7 years ago and left on amicable terms. I consider his work for them is sufficiently in the past to not pose an actual or a reasonable perception of conflict. Further, I don't consider him having casual friends who still work there a sufficient reason either – he has disclosed that and in our sector it is not unusual to have friends in many parts of the industry – it is something we all manage all the time.

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I recommend that we advise Powerlink (I would send an email) that we have considered what they have said and we do not consider that we should ask Hugh to step aside.

I would appreciate your thoughts, asap, as we need to get this settled.

Thanks


Michelle

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Michelle Groves
CEO
Australian Energy Regulator
GPO Box 520, Melbourne 3001
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Jorgensen, Lynley

From: Hugh Grant <hugh.grant@bigpond.com> on behalf of Hugh Grant <hugh@asif.org.au>
Sent: Wednesday, 8 April 2015 1:31 PM
To: Groves, Michelle
Cc: Jorgensen, Lynley; Roberts, Sebastian
Subject: Re: Powerlink CCP subpanel [SEC=UNCLASSIFIED]

Thanks Michelle

I am comfortable with the decision and fully support it.

Regards

Hugh

Hugh Grant

Executive Director, *ResponseAbility*

Mobile: +61 (0) 448 588 117 | Email: hugh.grant@bigpond.com | Website: www.responseability.com.au

From: "Groves, Michelle" <Michelle.Groves@aer.gov.au>
Date: Wednesday, 8 April 2015 9:43 AM
To: Hugh Grant <hugh.grant@bigpond.com>
Cc: Lynley Jorgensen <Lynley.Jorgensen@aer.gov.au>, "Roberts, Sebastian" <Sebastian.Roberts@accc.gov.au>
Subject: Powerlink CCP subpanel [SEC=UNCLASSIFIED]

Dear Hugh

We have recently discussed concerns raised by Powerlink regarding a potential conflict of interest arising from your participation in the Powerlink reset as a member of the CCP sub-panel.

As discussed, we have all agreed that your past employment with Powerlink does not create an actual conflict of interest. The AER Board has, however, turned its mind to the risk of perceived conflicts of interest that you have put to us for consideration following your discussion with Merryn York: specifically, your irregular social contact with some Powerlink employees, and perceptions you may have formed about Powerlink during your employment there that are now outdated.

We do not consider either of these give rise to an actual conflict of interest, or create a valid perception of such conflict. You worked for Powerlink seven years ago and left on amicable terms. We consider your work for Powerlink is sufficiently in the past to not pose an actual or a reasonable perception of conflict. You will be required to engage with the current material provided by Powerlink and bring your judgment and expertise to bear in respect of that material. We have no evidence that you will be unable to do that. Further, you have disclosed the social contact you have with current employees of Powerlink and we are satisfied that you are able to manage those relationships appropriately and professionally.

On that basis, I am writing to confirm that we will not ask you to recuse yourself from the CCP sub-panel assigned to the Powerlink reset. If you are comfortable with this decision, we will also communicate this to your fellow sub-panel members today.

I have advised Merryn York of our decision.

Thank you for how you have engaged with this issue and worked positively to have it resolved. I appreciate the efforts you made and your approach.

Released under FOI

Regards,

Michelle

Michelle Groves

CEO


Australian Energy Regulator

GPO Box 520, Melbourne 3001

T: +61 03 9290 1423 EA - Maddy Wimpole - (03) 9290 1466



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Jorgensen, Lynley

From: Hugh Grant <hugh@asf.org.au>
Sent: Wednesday, 8 April 2015 1:33 PM
To: David Headberry; Jorgensen, Lynley
Subject: FW: Powerlink CCP subpanel [SEC=UNCLASSIFIED]

FYI

Hugh

Hugh Grant

Executive Director, *ResponseAbility*

Mobile: +61 (0) 448 588 117 | Email: hugh.grant@bigpond.com | Website: www.responseability.com.au

From: "Groves, Michelle" <Michelle.Groves@aer.gov.au>
Date: Wednesday, 8 April 2015 9:43 AM
To: Hugh Grant <hugh.grant@bigpond.com>
Cc: Lynley Jorgensen <Lynley.Jorgensen@aer.gov.au>, "Roberts, Sebastian" <Sebastian.Roberts@accc.gov.au>
Subject: Powerlink CCP subpanel [SEC=UNCLASSIFIED]

Dear Hugh

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I have advised Merryn York of our decision.

Thank you for how you have engaged with this issue and worked positively to have it resolved. I appreciate the efforts you made and your approach.

Regards,


Michelle

Released under FOI

Michelle Groves
CEO
Australian Energy Regulator
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Jorgensen, Lynley

From: YORK Merryn (Powerlink) [REDACTED]
Sent: Monday, 13 April 2015 12:01 PM
To: Groves, Michelle
Cc: Jorgensen, Lynley; Roberts, Sebastian
Subject: RE: CCP sub panel membership [SEC=UNCLASSIFIED]

Michelle

Your email conveying the decision of the AER is acknowledged.

Best regards
Merryn

Merryn York
Chief Executive



FOR ALL
Everyone. Everywhere. Everyday.

From: Groves, Michelle [<mailto:Michelle.Groves@aer.gov.au>]
Sent: Wednesday, 8 April 2015 9:37 AM
To: YORK Merryn (Powerlink)
Cc: Jorgensen, Lynley; Roberts, Sebastian
Subject: CCP sub panel membership [SEC=UNCLASSIFIED]

Dear Merryn

We have recently discussed your concerns regarding a potential conflict of interest arising from Hugh Grant's participation in the Powerlink reset as a member of the CCP sub-panel.

As discussed, we have all agreed that Hugh's past employment with Powerlink does not create an actual conflict of interest. The AER Board has, however, turned its mind to the risk of perceived conflicts of interest that you and Hugh have put to us for consideration: specifically, Hugh's irregular social contact with some Powerlink employees, and perceptions he may have formed about Powerlink during his employment there that are now outdated.

We do not consider either of these give rise to an actual conflict of interest, or create a valid perception of such conflict. Hugh worked for Powerlink seven years ago and left on amicable terms. We consider his work for Powerlink is sufficiently in the past to not pose an actual or a reasonable perception of conflict. Hugh will be required to engage with the current material provided by Powerlink and bring his judgment and expertise to bear in respect of that material. We have no evidence that he will be unable to do that. Further, Hugh has disclosed the social contact he has with current employees of Powerlink and we are satisfied that he is able to manage those relationships appropriately and professionally.

On that basis, I am writing to confirm that we will not ask Hugh to recuse himself from the CCP sub-panel assigned to the Powerlink reset. We will confirm this with Hugh and other members of the sub-panel today.

Regards,

Released under FOI

Michelle

Michelle Groves
CEO
Australian Energy Regulator
GPO Box 520, Melbourne 3001
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Jorgensen, Lynley

From: David Headberry <davidheadberry@bigpond.com>
Sent: Monday, 13 April 2015 1:01 PM
To: 'Hugh Grant'; Jorgensen, Lynley; 'Jo De Silva'
Subject: RE: AER Decision Regarding Perceived Conflicts of Interest

Thanks for the heads up Hugh

Regards

David
Headberry Partners P/L
2 Parkhaven Crt, Healesville, Victoria, 3777
Ph: (03) 5962 3225, Fx: (03) 5962 3237, Mb: 0417 397 056

From: Hugh Grant [<mailto:hugh@aslf.org.au>] **On Behalf Of** Hugh Grant
Sent: Monday, 13 April 2015 12:32 PM
To: Lynley Jorgensen; David Headberry; Jo De Silva
Subject: Re: AER Decision Regarding Perceived Conflicts of Interest

Hello All

FYI – Merryn did not respond to me, so I contacted Garry Mulherin (Don Woodrow reports to Garry), and I have arranged to meet with Garry, Don and Jenny Harris (Powerlink's regulatory manager) in early May.

Regards

Hugh

Hugh Grant

Executive Director, *ResponseAbility*

Mobile: +61 (0) 448 588 117 | Email: hugh.grant@bigpond.com | Website: www.responseability.com.au

From: Hugh Grant <hugh@aslf.org.au>
Date: Wednesday, 8 April 2015 3:55 PM
To: Lynley Jorgensen <Lynley.Jorgensen@aer.gov.au>, David Headberry <davidheadberry@bigpond.com>, Jo De Silva [REDACTED]
Subject: FW: AER Decision Regarding Perceived Conflicts of Interest

FYI.....

From: Hugh Grant <hugh@aslf.org.au>
Date: Wednesday, 8 April 2015 3:54 PM
To: [REDACTED]
Subject: AER Decision Regarding Perceived Conflicts of Interest

Merryn

I have just received an email from Michelle Groves advising me that, having considered the issues, the AER does not consider that the perceived conflicts merit me stepping off the CCP Sub Panel for Powerlink.

I understand that Michelle has also advised you of that decision.

Released under FOI

If you wish, I'd be happy to meet with you and Don to discuss how we can ensure that we properly manage the perceived conflicts, and ensure that we can work as constructively as possible during the reset process.

Regards

Hugh

Hugh Grant

Executive Director, *ResponseAbility*

Mobile: +61 (0) 448 588 117 Email: hugh.grant@bigpond.com Website: www.responseability.com.au