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## **Memorandum of Understanding**

**between**

**the Australian Energy Market Commission**

("the AEMC," a body corporate established by section 5 of the *Australian Energy Market Commission Establishment Act 2004* (SA))

**and**

**the Office of the Tasmanian Economic Regulator**

("OTTER," established under section 5 of the *Electricity Supply Industry Act 1995* (Tas))

## 1 Objective

This Memorandum of Understanding (MoU) sets out the arrangements between the AEMC and OTTER to promote effective communication, cooperation and coordination between the organisations in the performance of their respective roles and functions in Australia's energy services industry (electricity and gas).

The MoU's objective is to guide the relationship between the organisations. The MoU is not legally binding (and therefore neither organisation's statutory powers nor functions are affected), however the organisations intend to use their best endeavours to abide by the objective and terms described in this MoU.

## 2 Parties to the MoU

### **The Australian Energy Market Commission**

The AEMC is established under the *Australian Energy Market Commission Establishment Act 2004* of South Australia (AEMC Establishment Act).

Under the National Electricity Law (NEL), National Gas Law (NGL) and the National Energy Retail Law (NERL), the AEMC is responsible for Rule making and market development relating to the National Electricity Market, access to natural gas pipelines services and broad elements of natural gas markets, including retail gas markets, and relating to the sale and supply of energy to customers and other matters concerning retail markets.

Under the NEL, the NGL, the NERL and the AEMC Establishment Act, the AEMC conducts reviews of the energy market related matters for the Standing Council on Energy and Resources (formerly known as the Ministerial Council on Energy).

From time to time, the AEMC may undertake reviews into the effectiveness of competition in the electricity and/or gas markets or retail energy market in various jurisdictions.

### **The Office of the Tasmanian Economic Regulator**

OTTER supports the Economic Regulator in undertaking its statutory functions under the *Economic Regulator Act 2009* (Tas), the *Electricity Supply Industry Act 1995* (Tas), the *Gas Act 2000* (Tas), the *Gas Pipelines Act 2000* (Tas) and the *Water and Sewerage Industry Act 2008* (Tas).

The Economic Regulator is established under the *Economic Regulator Act 2009* (Tas). Its functions under that Act include:

- investigations and inquiries into the pricing policies of certain Government bodies that are monopoly, or near monopoly, providers of services and goods in Tasmania;
- recommending maximum prices chargeable by these bodies in respect of the supply of those services and goods; and
- investigations into complaints of breaches of the national competition policy competitive neutrality principles.

The Economic Regulator also has functions under the *Electricity Supply Industry Act 1995* (Tas) and other related regulatory instruments and administers the Tasmanian Electricity Code. The Economic Regulator has a number of key responsibilities:

- administering the licensing system for electricity supply industry entities and monitoring and enforcing their compliance with licence conditions;
- issuing and maintaining the Tasmanian Electricity Code;

- monitoring and regulating technical standards in the electricity supply industry; and
- investigations into the pricing policies of entities that supply declared electrical services.

In undertaking these functions, the Economic Regulator's objectives include:

- the promotion of efficiency and competition in the electricity supply industry;
- the establishment and maintenance of an efficient system of electricity generation, transmission, distribution and retail supply; and
- the protection of the interests of electricity consumers.

The *Gas Pipelines Act 2000 (Tas)*, *Gas Act 2000 (Tas)* and associated codes establish the procedural and institutional arrangements for what has been a fully contestable gas market since its commencement. Except for economic regulation, the Economic Regulator's functions are similar to that in the electricity supply industry with key objectives of:

- facilitating the development of a gas supply industry in Tasmania;
- promoting efficiency and competition in the gas supply industry; and
- protecting the interests of consumers of gas.

In addition, the Economic Regulator has responsibilities under the *Water and Sewerage Industry Act 2008 (Tas)* which provides the framework for the economic regulation of the water and sewerage sector, including the establishment of a licensing regime and providing for the regulation of prices, customer service standards and performance monitoring of the sector.

### **3 Relevant information**

Relevant information under this MoU is any information relating to:

- the provision of energy services to customers, including customer retail services and customer connection services;
- the activities of persons involved in the sale and supply of energy to customers;
- to the extent possible and known by the disclosing organisation, the application and development of consumer protections for small customers, including (but not limited to) protections relating to hardship customers (where small customers and hardship customers are defined in the NERL); and
- reviews or reports on the effectiveness of competition in electricity and/or gas markets, retail prices and retail price movements.

### **4 Communication, cooperation and coordination**

#### **Communication**

The organisations recognise that the sharing of relevant information can assist in the effective performance of their respective statutory powers and functions.

Each organisation recognises that in the course of performing and exercising its powers and functions, it may come into possession of information which could assist the other organisation to fulfil its responsibilities. The organisations will use their best endeavours to provide to each other, in a timely manner, relevant information, or information requested by the other organisation, subject to any appropriate considerations or legal obligations of the organisation that may disclose confidential information.

### ***Confidential information***

The organisations each have statutory powers and obligations in relation to the use and disclosure of confidential information in the performance of their functions. The organisations recognise that the disclosure of confidential information could adversely affect that organisation and the interests of the original provider of confidential information.

Where relevant confidential information is disclosed by one organisation, or in response to a request by the other organisation, the disclosing organisation will:

- as appropriate to, and subject to any confidentiality obligations to third parties and any other legal obligations, the organisation that is disclosing relevant confidential information, share relevant confidential information;
- identify what is confidential in any information it provides to the recipient organisation; and

The recipient organisation will treat relevant confidential information that is identified as confidential information by the disclosing organisation as confidential.

### **Cooperation**

The organisations will cooperate in the assessment and identification of relevant information.

If, and where appropriate, the organisations will cooperate on:

- the exercise or performance of their responsibilities, including the making of statutory decisions, implementation or development of policies or statutory programs, and public statements that relate to relevant information or may be of interest to the other organisation; and
- issues relevant to the development of electricity or gas markets.

### **Coordination**

Staff within each organisation will communicate or meet, on an as required basis, to coordinate the communication and cooperation arrangements of this MoU.

## **5 Administration of this MoU**

Each organisation will nominate a liaison officer to serve as a point of contact in relation to administration matters that may arise under this MoU, including such matters as the review of this MoU.

The organisations will review this MoU at intervals of no more than 5 years.

This MoU will be published by the organisations on their respective websites.

This MoU may only be varied in writing between the organisations.

Dated: 5 April 2013

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JOHN PIERCE

Chairperson

Australian Energy Market Commission

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GLENN APPEYARD

Chairman

Tasmanian Economic Regulator