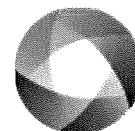


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**COAG
Energy Council**

Chair

Mr John Pierce
Chair
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Mr Pierce *John*

You would be aware that in December 2015, in response to the *Review of Governance Arrangements for Australian Energy Markets*, the Council of Australian Governments (COAG) Energy Council (the Council) agreed to task the Australian Energy Market Commission (AEMC) with providing targeted strategic advice to inform the Council's energy market strategy and priority setting.

I want to thank you for your considered engagement since that time and for your suggestions to amend the national energy laws in relation to this important strategic advice role. As the Council has resolved to rely on the existing national energy law framework, rather than make further legislative amendments, the attached Terms of Reference has been developed with the aim of formalising the provision of this advice.

The Council is seeking a report that informs key issues that could impact on its efforts in determining and setting strategic priorities in the Australian energy sector and markets. The report is intended to be a brief, broad, and high-level analysis of issues drawing on the AEMC's daily experience of the sector and its institutional interactions. It will form an important contribution to Council deliberations in the coming years, and it is intended that the outcome of those deliberations will be published on the Council website as a means of providing guidance to the energy community and its institutions, including the AEMC. Importantly, as this tasking is an ongoing triennial process, each advice and subsequent response of the Council is intended to build upon the former, with the aim of providing a body of work to assist decision makers into the future – it will act as a transparent reflection of the evolution of the Council's priorities over time.

If you require further information please contact Mr Brenton Philp, A/g First Assistant Secretary, Energy Division on (02) 6275 9026.

Yours Sincerely

The Hon Josh Frydenberg MP
Chair
COAG Energy Council

December 16

Terms of Reference

Request for advice: Energy Sector Strategic Priorities

Context

On 4 December 2015, the COAG Energy Council (the Council) published its response to the *Review of Governance Arrangements for the Australian Energy Markets* (the Review). In its response, the Council affirmed that it is the primary entity responsible for setting strategic direction in the energy sector and in relation to energy market reform. Critical to this is the identification of emerging circumstances (or the potential for such circumstances) that could transform the energy sector. The Council's role is to provide leadership and strategic guidance about how such structural changes should, if at all, be accommodated within the national energy frameworks.

To assist in the Council's understanding of the changing environment in and around the energy sector, and ultimately in determining strategic priorities, it is necessary to seek advice from a range of expert sources. An important part of this is to draw on the Australian Energy Market Commission (AEMC), and its understanding of the detailed frameworks set out in the national energy rules, to highlight major issues currently facing the energy market and circumstances that could arise in the in the future that may require further analysis.

Energy Council Directed Review

The Council comprises Ministers responsible for Energy matters. These Ministers comprise the membership of the legally enduring Ministerial Council on Energy (MCE). Pursuant to section 6(b) of the *Australian Energy Market Commission Establishment Act 2015*, the MCE requests the AEMC to provide advice on current and future challenges and opportunities facing Australia's energy sector and energy markets.

This Terms of Reference (ToR) is an ongoing tasking of the AEMC. Future advices are intended to build on previous work to provide a useful body of work against which current strategic priorities may be referenced.

Content of the Report

The Council seeks a report that sets out the key issues that could impact on the Council's efforts in determining and setting strategic priorities in the Australian energy sector and Australian energy markets. Broadly, the report should cover significant current and potential challenges, risks and opportunities relating to the energy policy, regulatory or operational environment.

It is intended that this advice be a broad, high-level analysis rather than a detailed examination of individual issues. More specifically, the report should concisely highlight:

- major challenges, risks and opportunities currently facing the energy sector and energy markets;
- any current or potential future energy sector related developments that could impact on the national energy regulatory frameworks and their capacity to deliver:

- the statutory objectives articulated in the NEL, NGL and NERL;
- the objectives articulated by COAG in the Australian Energy Markets Agreement;
- the current work being progressed by the AEMC, inclusive of reviews and rule change requests, that are relevant to the matters listed above;
- from a high-level, issues-based perspective, matters covered under the national energy rules that may require further consideration.

The advice should be developed in the context of any matters that could impact on national energy policy, including the delivery of the National Electricity Objective, the National Gas Objective and the National Energy Retail Objective.

Process and deliverables

The AEMC will provide its detailed advice, in the form of a report to the MCE by October every three years. In the intervening years, the AEMC is to annually provide updates on its previous detailed advice to the MCE by October. Unless determined otherwise, the Report will be published in mid-December following the provision of advice to the MCE in October.

In addition to its existing consultation activities, in developing the advice and the updates, the AEMC must consult with:

- the Standing Committee of Officials (SCO) on an ongoing basis; and
- the other market institutions (the Australian Energy Regulator, Australian Energy Market Operator and Energy Consumers Australia).

The process is expected to take about one year from commencement of the work until the consideration of the advice by the COAG Energy Council. A timeline for the provision of advice is set out below:

Activity	Due by
Terms of Reference issued to the AEMC	The second half of year 1 (initially 2016).
Development of detailed approach	December – year 1 (and in December each year before the next advice is to be provided).
Delivery of advice to Council Secretariat	September/October – year 2 (initially 2017, and every three years thereafter).
Workshop with SCO; consideration of advice	Late-October – in each year following receipt of the advice.
COAG Energy Council publishes its strategic priorities	December – in each year following receipt of the advice.

The full process for developing the detailed advice will be conducted every three years. In line with this, it is expected that the AEMC will provide detailed advice in October 2017, 2020, 2023, etc.

The AEMC must publish a statement of approach setting out how the advice will be developed, including the process for consultation with all stakeholders.

Future variations to the Terms of Reference

As with all advice requested by the MCE, the Council recognises it may be necessary to vary this ToR to reflect changing priorities, experiences over time with the type or frequency of advice or, if necessary, to terminate this request for advice. Additionally, supplementary ToR for future triennial reviews may be issued to focus upon specific areas of national policy interest.