



Memorandum of Understanding

between
Australian Energy Market Commission
and
Australian Energy Regulator

to establish processes for managing Trial Rules
and related enquiries

1. Purpose

This Memorandum of Understanding (**MOU**) outlines the arrangements between the Australian Energy Market Commission (**AEMC**) and the Australian Energy Regulator (**AER**) for managing Trial Rules¹ and enquiries received through the AER's Innovation Enquiry Service² (**IES**).

More specifically, this MOU establishes certain roles and responsibilities of, and relevant processes to be adopted by, the AER and AEMC in relation to:

- enquiries received through the AER's IES;
- the transfer of Trial Rule change requests received by the AER to the AEMC; and
- seeking input or feedback from each other in relation to enquiries received through the IES, or in relation to Trial Projects,³ Trial Waivers⁴ or Trial Rules.

This MOU operates alongside existing memoranda of understanding between the AEMC and the AER.⁵

2. Relevant functions of the AEMC and the AER

AEMC – The AEMC is established under the *Australian Energy Market Commission Establishment Act 2004* (SA). Among its other statutory functions, the AEMC is responsible for assessing Trial Rule change requests and for making, amending and revoking Trial Rules under the National Electricity Law (**NEL**), the National Electricity Rules, the National Gas Law (**NGL**), the National Gas Rules, the National Energy Retail Law (**NERL**) and the National Energy Retail Rules (collectively, the **Energy Laws and Rules**).

AER – The AER is established under the *Competition and Consumer Act 2010* (Cth). Among its other statutory functions, the AER is responsible for:

- assessing requests for Trial Waivers;
- making, amending and revoking Trial Waivers; and
- monitoring of, and compliance with, Trial Waivers and Trial Rules.

These functions are outlined in the Energy Laws and Rules.

3. Operational provisions

Under this MoU, the AEMC and the AER will use their best endeavours to adopt the roles, responsibilities and relevant processes set out in the provisions below.

¹ Trial Rule means a rule made by the AEMC for the purposes of a Trial Project under sections 102-103 of the NEL, sections 311-313 of the NGL or sections 259-261 of the NERL.

² The Innovation Enquiry Service is a service provided by the AER, which will provide innovators with informal guidance on how a new technology, service or business model can be delivered under current energy regulations.

³ Trial Project has the meaning given in the NEL, NERL and NGL, as applicable. In summary, trial project means a project that the AEMC in relation to a trial rule, or the AER in relation to a trial waiver, is satisfied is genuinely innovative taking into account the innovative trial principles, and that tests an approach in relation to:

- under the NEL, the supply of, or demand for, electricity; or
- under the NERL, customer connection services or customer retail services; or
- under the NGL, natural gas services.

⁴ Trial Waiver means an exemption granted by the AER under section 18ZL of the NEL, section 30W of the NGL or section 121C of the NERL.

⁵ As at the date of this MOU, the MOU dated 23 June 2014 between the Australian Competition and Consumer Commission, the AEMC and the AER and the MOU dated 7 June 2017 between the Australian Energy Market Operator, the AEMC and the AER are the only MOUs between the AER and AEMC in effect.

Cooperation

The AEMC and the AER will work together to achieve the effective development, regulation and oversight of Trial Projects, Trial Waivers and Trial Rules in accordance with the Energy Laws and Rules.

Meetings

The AEMC and the AER will meet as required, and at least on a quarterly basis, to discuss Trial Projects, Trial Waivers and Trial Rules and the effectiveness of the parties' collaboration on these matters.

Enquires lodged with the IES

- The AER will engage the AEMC on enquiries lodged with the AER's IES relating to:
 - rules that have been made by the AEMC but are yet to commence; or
 - the rule making process for Rules,(each being an **IES Enquiry**).
- The AER will notify, and request the input of, the AEMC in relation to IES Enquiries by emailing the AEMC's nominated contact person for triaging IES Enquires (**AEMC Contact**) as soon as practicable. The AEMC is responsible for ensuring that the AER has been provided with the contact details of the AEMC Contact.
- The AEMC will confirm receipt of a request from the AER within 2 business days. Confirmation will include a request for access to the IES portal for relevant AEMC staff.
- The AER will grant the relevant AEMC staff access to the IES portal within 2 business days. If the AER has not received confirmation from the AEMC within 2 business days, the AER will send a follow-up email to the AEMC Contact.
- The AEMC Contact will ensure correct subject matter experts are allocated to the IES Enquiry and these persons will respond on behalf of the AEMC in the IES portal, or via email, which will be saved in the IES portal, unless the AEMC determines that this is inappropriate based on the nature and subject matter of the advice. The AEMC will notify the AER by email when the AEMC has finalised its response to the IES Enquiry.

Trial Rule process

- When a Trial Rule change request is lodged with the AER via the Trial Rule portal on the AER's website, the AER will, within 2 business days, notify:
 - the AEMC at the agreed email address; and
 - the AEMC Contact.
- The AEMC will confirm receipt of the AER's notification within 2 business days.
- If the AER has not received confirmation within 2 business days, the AER will send a follow-up email to the above email address and the AEMC Contact.
- The AEMC will download the Trial Rule change request from the Trial Rule portal and process the Trial Rule change request in accordance with the AEMC's usual processes.
- When a Trial Rule change request is lodged with the AEMC via the submissions page on the AEMC's website, the AEMC will, within 2 business days, notify:
 - the AER at the agreed email address; and
 - the AER Contact.

Reporting

The AER will monitor all Trial Projects being undertaken under a Trial Rule and notify the AEMC within 10 business days if the AER becomes aware of a compliance event or other material event arising in relation to a Trial Project that may have current or future implications for the relevant Trial Project or Trial Rule. This notification will be sent to:

- the AEMC at the agreed email address; and
- the AEMC Contact.

Disclaimer wording

The AER will maintain a public disclaimer on its Trial Rule portal, in a form agreed to by both parties, which confirms that any Trial Rule request lodged with the AER will be provided to the AEMC for processing and the AEMC's usual rule change processes will apply to the request (such as publication of the request on the AEMC's website).

Legal standing

The MOU is non-binding and does not modify the legal responsibilities of the AEMC or AER, their governance or their powers and functions.



Signed on behalf of the
Australian Energy Regulator
Clare Savage
Chair



Signed on behalf of the
Australian Energy Market Commission
Anna Collyer
Chair