



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 Essential Services Commission

("ESC," a body corporate established by section 7 of the *Essential Services Commission Act 2001* (Vic))

1 Objective

This Memorandum of Understanding (MoU) sets out the arrangements between the AEMC and the ESC 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 Essential Services Commission

The ESC commenced operations on 1 January 2002 as Victoria's independent economic regulator of prescribed essential utility services supplied by the electricity, gas, ports and rail freight industries. In January 2004, the ESC role was extended to include regulation of Victoria's water and sewerage services. In 2009, the ESC assumed administration of the Victorian Energy Efficiency Target Scheme.

Established under the *Essential Services Commission Act 2001* (Vic), the ESC subsumes the Office of the Regulator-General and its work builds on the regulatory foundation laid by that office. Utility services such as energy, water supply and transport services are among the most important contributors to the social and economic wellbeing of all Victorians and the ESC promotes the community's interests by delivering regulatory arrangements for the continuing oversight of Victoria's essential services 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.

6 EXECUTED AS A MEMORANDUM:

THE COMMON SEAL of the ESSENTIAL SERVICES)
COMMISSION was affixed pursuant to the authority)
of the Commission on the 14 day of JAN 2012/3)



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Dr Ron Ben-David
Chairperson

Signed by the Chairperson of the)
AUSTRALIAN ENERGY MARKET COMMISSION)
on the 18th day of December 2012)

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JOHN PIERCE
Chairperson
Australian Energy Market Commission