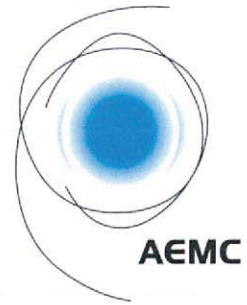




ICRC

independent competition and regulatory commission



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 Independent Competition and Regulatory Commission

("the ICRC," a body corporate established by section 5 of the *Independent Competition and Regulatory Commission Act 1997* (ACT))

1 Objective

This Memorandum of Understanding (MoU) sets out the arrangements between the AEMC and the ICRC to promote effective communication, cooperation and coordination between the organisations relating to 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 reasonable endeavours to give effect to 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 Independent Competition and Regulatory Commission

The ICRC is a statutory body set up to regulate prices, access to infrastructure services and other matters in relation to regulated industries and to investigate competitive neutrality complaints and government-regulated activities.

The Commission's objectives and functions are defined in two principal Acts:

- *Independent Competition & Regulatory Commission Act 1997* (ACT) (the Act); and
- *Utilities Act 2000* (ACT).

The ICRC is not subject to the direction or control of the Minister or any other referring authority in relation to any investigation, price direction, report, access agreement or arbitration, except where provided by the Act or another law of the Australian Capital Territory.

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.

Reference to terms used in this clause for relevant information is to be taken as having the same meaning as terms defined in national energy framework legislation as amended from time to time (being the National Energy Law, the National Gas Law, and the National Energy Retail Law).

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.

Collecting, using and sharing information

The organisations will routinely share information where it is relevant to statutory powers and functions of the other organisation.

Information will be shared according to the following principles:

- the ability of an organisation to collect information should not be constrained by sharing that information or in response to a request for information by the other organisation;
- the approach should be as efficient as possible for both organisations and where relevant the original provider of information to the disclosing organisation;
- information security will be maintained to a level as required by the disclosing organisation;
- information integrity and accuracy will be recognised by both organisations; and
- the process of information management should be flexible, including in response to potentially rapidly changing circumstances.

Each organisation is responsible for the validation and quality checking of any information provided by the disclosing organisation, as well as collecting information in a timely and efficient way.

The organisations will consult each other on:

- information that is collected regularly;
- definitions that are or may be commonly used by the organisations; and
- information systems used by the organisations so as to, where relevant and appropriate allow for the efficient sharing of information between the organisations.

Collecting, using and sharing information that may be confidential

The organisations each have statutory powers and obligations in relation to the collection, use and disclosure of information that may be confidential in the performance of their functions. Confidential information is information that is defined as such under the relevant legislation relating to the establishment of the organisations. The organisations recognise that the use and disclosure of confidential information could adversely affect that organisation and the interests of the original provider of confidential information.

Confidential information will only be shared if it is expressly authorised, either by legislation or by consent of the original provider of the confidential information.

Where the recipient organisation has received confidential information from the disclosing organisation, the recipient organisation will first seek consent before:

- (i) passing the information to any third party; and
- (ii) using the information in any enforcement proceeding or other regulatory action (the AEMC has no specific enforcement or regulatory action functions or powers).

The recipient organisation will protect the confidentiality and sensitivity of all unpublished regulatory and other confidential information shared by the disclosing organisation.

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

Cooperation

Timely and focused exchange of relevant information is essential to delivering effective co-operation in the necessary areas.

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.

Information available to one organisation that is relevant to the responsibilities of the other organisation will be shared where requested. In addition, if one organisation considers that information it has gathered would be of interest to the other, it will offer such information to the other. Not all information will be shared because that is unnecessary and would overwhelm the other organisation with information that may not be central to its objective.

Coordination

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

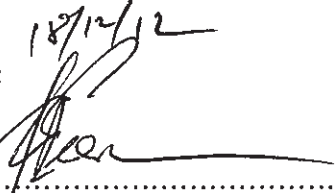
5 Administration of this MoU

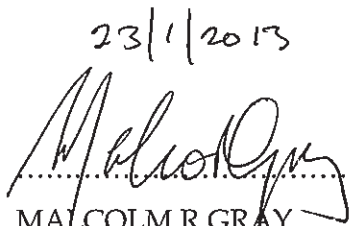
Each organisation will nominate a liaison officer to serve as a point of contact in relation to administration matters that may arise under this MoU, including such matters as the review of this MoU.

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 can only be varied as agreed in writing between the organisations.

Dated: 18/12/12

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JOHN PIERCE
Chairperson
Australian Energy Market Commission

23/1/2013

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MALCOLM R GRAY
Senior Commissioner
Independent Competition and
Regulatory Commission