



**Memorandum of Understanding**

**Between**

**Australian Energy Market Commission**

**And**

**Australian Energy Market Operator Limited**

## **Part A: Recitals**

### **1 Purpose and principles**

#### *Purpose*

The Ministerial Council on Energy (now the COAG Energy Council) reported to the Council of Australian Governments (COAG) in December 2003 on major reforms to Australian energy markets. These reforms were subsequently endorsed by COAG in June 2004 in the Australian Energy Market Agreement 2004 (AEMA), as amended.

A key element of the reform agenda was to improve and streamline the governance arrangements for Australian energy markets. Reforms included the establishment of two new bodies—the Australian Energy Market Commission (AEMC) and the Australian Energy Regulator (AER) and the conferral of functions on Australian Energy Market Operator Limited (AEMO) as operator of the national electricity market and national gas markets.

The National Electricity Law (commenced 1 July 2005), the National Gas Law (commenced 1 July 2008) and the National Energy Retail Law (commenced 1 July 2012), confer important functions on the AEMC, the AER and AEMO with respect to Australia's energy markets.

The Australian Energy Market Commission Establishment Act 2004 (SA) envisages that the AEMC will enter into a Memorandum of Understanding with other bodies for the purposes of facilitating and coordinating the performance of its functions.

AEMO (then called National Electricity Market Management Company Limited) and the AEMC entered into a MoU in 2007. This MoU replaces the 2007 MoU.

This MoU sets out the arrangements agreed between the AEMC and AEMO to promote effective cooperation, communication and co-ordination between the organisations in the performance of their different, but complementary, roles in Australia's energy markets.

The MoU is a public document and communicates, in a transparent way to all energy market stakeholders, the administrative arrangements that operate between the organisations.

The MoU is a statement of principles to guide the relationships between the organisations. The MoU is not legally binding on the organisations, however the organisations intend to use their best endeavours to abide by the objectives, principles and terms set out in this MoU.

Nothing in this MoU affects the exercise of functions or responsibilities of the AEMC or AEMO.

This MoU applies to current and any further functions conferred on the AEMC and AEMO unless the relevant organisation gives the other organisation notice in writing to the contrary.

### ***Communication***

The organisations recognise the importance of regular and open communication between them at both commissioner / board member and officer levels. This communication will enhance the effectiveness of the institutions, individually and collectively, in fulfilling their roles within Australia's energy markets.

### ***Co-operation***

The organisations will work together to achieve the effective regulation, oversight and development of energy markets in Australia, recognising that each organisation has different roles and functions with respect to these markets.

The organisations recognise that overall outcomes for the energy markets and stakeholders, including the long term interests of consumers, will be improved if the organisations work co-operatively and maintain a close working relationship in dealing with energy market issues.

### ***Reciprocity***

Each of the organisations has specific statutory responsibilities. These roles will be performed more effectively where the organisations have agreed reciprocal commitments.

## **2 The organisations and their roles in energy markets**

### ***The AEMC***

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

The AEMC has two roles. It advises the COAG Energy Council<sup>[1]</sup> on energy market development and is the rule maker for energy markets.

In its role as adviser to the COAG Energy Council, the AEMC provides governments with advice they request on ways to help the energy markets grow and develop so that consumers benefit from more efficiently operating energy markets. The AEMC also initiates its own formal reviews in line with its strategic priorities for energy market development. If the COAG Energy Council agrees with the AEMC's energy reform recommendations they request rule changes to deliver those changes.

In its role as rule maker under the national energy laws<sup>[2]</sup>, the AEMC makes rules in response to issues raised in rule change requests from stakeholders including governments, industry and consumers. The AEMC makes rules relating to the National Electricity Market (NEM), access to natural gas pipeline services and broad elements of the natural gas markets and the sale and supply of energy to customers.

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<sup>[1]</sup> The Ministerial Council on Energy (MCE) is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for Energy. On 1 July 2011 the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated Council is now called the COAG Energy Council.

<sup>[2]</sup> National Electricity Law, National Gas Law and National Energy Retail Law

## ***AEMO***

AEMO has functions and powers under the national energy laws for the operation and planning of national energy markets and systems. AEMO's role includes:

- Operation of the NEM power system and the Victorian declared gas transmission system,
- Long-term planning for the NEM, planning, procurement and connection to the Victorian electricity transmission network and Victorian gas transmission planning,
- Day to day management of the NEM and retail and wholesale gas markets in south-eastern Australia, and
- Collaboratively improving existing markets as well as developing new ones for the benefit of the energy sector.

## **Part B: Operational provisions**

### **3 Keeping each other informed**

Each organisation recognises that in the course of performing and exercising its duties, functions and powers it may come into possession of information which could assist the other organisations to fulfil their responsibilities. Each organisation will use reasonable endeavours to notify the relevant organisation in a timely manner of the existence of such information, even if it has not received a request from that organisation to do so, subject to clause 5 and any other relevant legal or operational considerations.

### **4 Information sharing**

The organisations have been empowered to share information to assist each other in the performance and exercise of their respective duties, functions and powers.

The organisations will use their best endeavours to provide, in a timely manner, relevant information that has been requested by the other organisation, subject to clause 5 and any other relevant legal or operational considerations.

### **5 Confidential information**

The organisations each have statutory obligations and powers 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 both the operations of that organisation and the interests of the original provider.

Where:

- AEMO requests information from the AEMC, or
- the AEMC requests information from AEMO,

the organisations agree that:

- they will, subject to any confidentiality obligations to third parties and to any requirements of the law, share confidential information
- the disclosing organisation will identify what is confidential in any information it provides to the requesting organisation
- the requesting organisation will treat information that is so identified as confidential
- if the requesting organisation becomes subject to a subpoena or other legal demand to disclose confidential information provided by the disclosing organisation, it will immediately notify the disclosing organisation, to enable the disclosing organisation to advise any intended action relating to the release, disclosure, publication or production of such information, and to advise of its view concerning the same.

## **6 Consultation and cooperation**

The organisations agree that there will be regular cooperation and liaison between them in relation to their respective functions, powers and duties.

The organisations will consult with each other on the performance of their responsibilities (including formal decisions and public statements) that may be of interest to or have an effect on the other organisation and on issues relevant to the further development of energy markets.

In particular, the AEMC will at an early stage in the rule making process, and prior to preparing a draft rule determination, consult on implementation issues with AEMO including on the potential impact of proposed Rule changes on the information technology systems underpinning the operation of the national electricity and gas markets.

## **7 Regular meetings between organisations**

Chairpersons of the AEMC and AEMO or a nominated commissioner / board member will meet at least every six months to assess the operation of the MoU and the ongoing relationships between the organisations as bodies responsible for administration of the Australian energy market regulatory arrangements.

The AEMC and AEMO will also meet at an executive or senior officer level at least every three months to discuss the implementation of this MoU and the development and ongoing effectiveness of regulatory arrangements. Other contacts between staff of the organisations will take place as required.

## **8 Staff exchange**

The organisations recognise that staff exchange arrangements can provide benefits to them by the sharing of expertise, training and staff development opportunities. The organisations will seek to identify appropriate opportunities to exchange staff.

## **9 Management of the MoU**

*Liaison officers*

The AEMC and AEMO will nominate a liaison officer to serve as a point of contact in relation to matters arising under this MoU and to be responsible for general liaison under this MoU and subsequent cooperation arrangements between the organisations.

***Disagreements***

In the event of any disagreement between the organisations as to the implementation of this MoU or the performance of their respective functions, powers and duties, the chief executive officers of the organisations (or their delegates) will seek to resolve the matter in accordance with the principles of this MoU.

***Review***

The organisations will review this MoU within five years.

***Publication***

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

Dated: 25 August 2014

  
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JOHN PIERCE

Chairperson  
Australian Energy Market  
Commission

  
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MATT ZEMA

Managing Director  
Australian Energy Market  
Operator Limited

