



# APPENDIX: ENERGY MARKET REFORM



In 2004 the Australian, state and territory governments set the agenda for a transition to national energy regulation, with the Australian Energy Market Agreement. The 2006 revisions to that agreement underpin the most recent wave of reform. They include streamlined regulatory, planning, governance and institutional arrangements for the national electricity and gas markets.

# ENERGY MARKET REFORM

## A.1 Institutional framework

At the national level, two intergovernmental bodies determine the direction of Australia's energy policy: the Council of Australian Governments (COAG) and the Ministerial Council on Energy (MCE). The peak intergovernmental forum in Australia, COAG comprises the prime minister, state premiers, territory chief ministers and the president of the Australian Local Government Association. Its role is to initiate, develop and monitor the implementation of policy reforms that are nationally significant and that require cooperative action by Australian governments. These reforms include energy market reform.

The MCE comprises Australian, state and territory energy ministers. Ministers from New Zealand and Papua New Guinea have observer status. The MCE's role is to initiate and develop energy policy reforms for consideration by COAG. It also monitors and oversees the implementation of energy policy reforms agreed by COAG. The Standing Committee of Officials is a

group of senior officials from the Australian, state and territory governments who assist the MCE.

In addition, special-purpose bodies have been created to develop and implement reform packages for the energy sector:

- > In 2006 COAG established an Energy Reform Implementation Group (ERIG) to report on measures that may be necessary to achieve a fully national electricity transmission grid. ERIG also addressed industry structure and financial market issues that may affect the ongoing efficiency and competitiveness of the energy sector.
- > The MCE established:
  - the Retail Policy Working Group to oversee the transfer of energy distribution (non-economic) and retail regulation functions to the national legislative framework
  - an industry led Gas Market Leaders Group to produce a market development plan for the gas wholesale sector.



Other key agencies in the national energy framework are:

- > the Australian Energy Regulator (AER), which is the independent national energy market regulator
- > the Australian Energy Market Commission (AEMC), which is responsible for rule making and market development in the national electricity and gas markets. It also reviews the energy market framework and provides policy advice to the MCE.
- > the Australian Energy Market Operator (AEMO), which is responsible for the day-to-day operation and administration of the power system and the electricity and gas wholesale and retail markets in all jurisdictions except Western Australia and the Northern Territory.

Although the AER, the AEMC and AEMO are not policy bodies, each participates in energy market reform processes. Figure A.1 outlines the roles and responsibilities of key bodies involved in national energy policy, regulation and market operation.

## A.2 Transition to a national energy framework

The AER and the AEMC were established under the Australian Energy Market Agreement and began on 1 July 2005. The transfer of functions from state and territory regulators, however, is still in progress. Table A.1 sets out the institutional arrangements that will apply once the transfer of functions is complete.

### Market monitoring, compliance and enforcement

The AER monitors and enforces compliance with national energy market legislation, including the National Electricity Law and Rules and the National Gas Law and Rules. This role encompasses compliance with the law and rules governing network regulation, the wholesale electricity market, the Victorian wholesale gas market, the National Gas Market Bulletin Board and jurisdictional retail gas market procedures. These functions have

transferred gradually since the AER's inception, with the most recent functions (relating to the Victorian wholesale gas market and retail gas market procedures) incorporated in the National Gas Law from 1 July 2009.

### Electricity networks

The AER has been responsible for the regulation of electricity transmission networks since 1 July 2005—a role previously undertaken by the Australian Competition and Consumer Commission (ACCC). On 1 January 2008 revisions to the Electricity Law and Rules refined the regulatory process for electricity networks. The new framework also established the AER as the economic regulator of electricity distribution networks in the National Electricity Market (NEM) jurisdictions.<sup>1</sup>

In 2008 the AER released guidelines to assist electricity distribution businesses and their customers to understand the AER's approach to distribution network regulation. It also released details of the incentive schemes to apply to electricity distribution businesses. The AER's first revenue determinations for electricity distribution were completed in April 2009 for the New South Wales and Australian Capital Territory (ACT) network businesses.

### Gas networks

The Gas Law and Rules, which took effect on 1 July 2008, provide the regulatory framework for the gas transmission and distribution sectors. These instruments replace the Gas Pipelines Access Law and the National Gas Code, which had provided the regulatory framework since 1997.

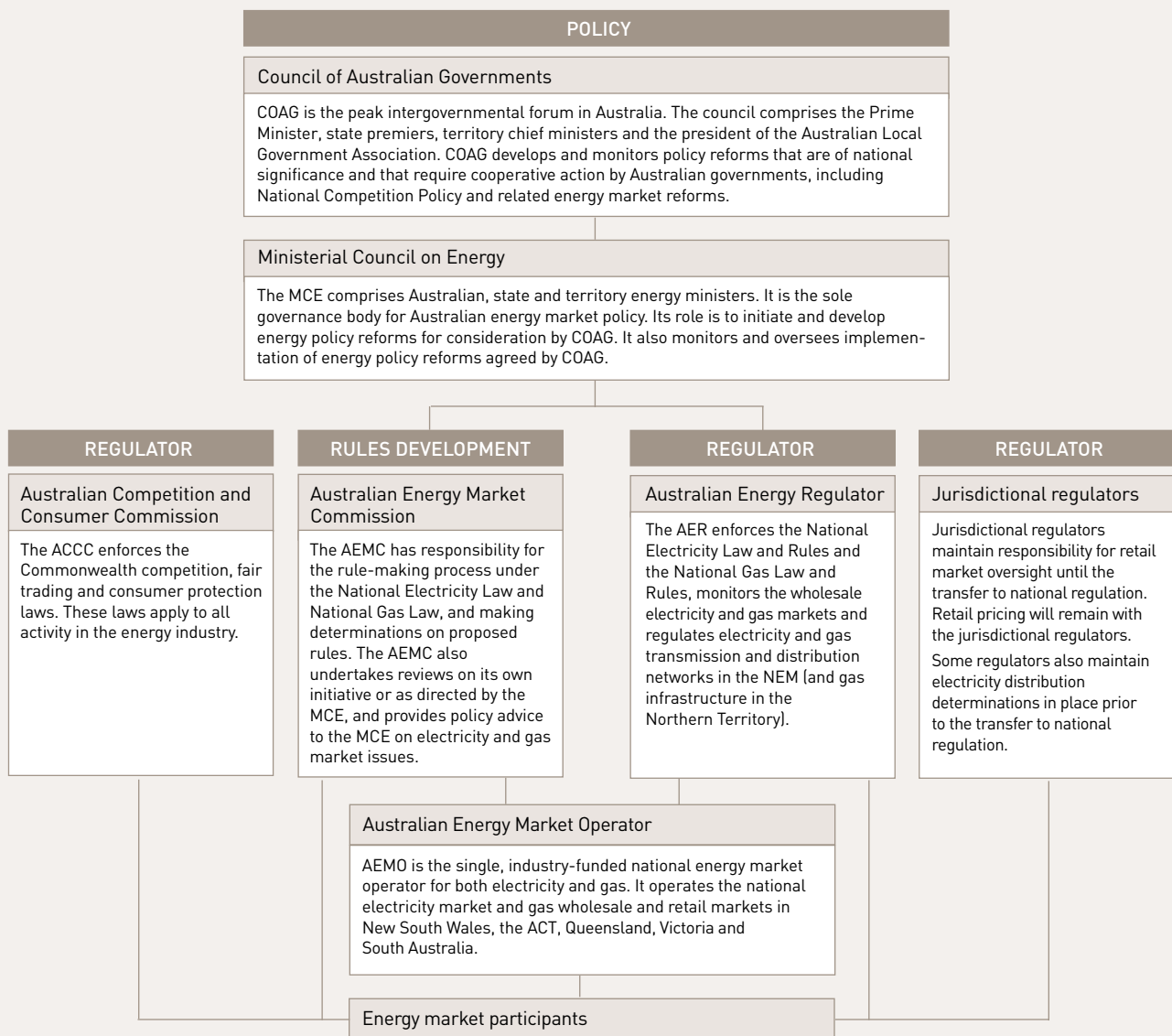
The new legislation transferred the regulation of covered distribution pipelines outside Western Australia from state and territory regulators to the AER. It also transferred the regulation of covered transmission pipelines outside Western Australia from the ACCC to the AER. As of July 2009 the AER regulated eight transmission pipelines<sup>2</sup> and 11 distribution networks.<sup>3</sup>

1 The regulation of transmission and distribution networks in Western Australia and the Northern Territory remains under state and territory jurisdiction.

2 Two transmission pipelines are subject to light regulation.

3 Western Australia has three covered transmission pipelines and one covered distribution network. The Economic Regulation Authority regulates these assets.

Figure A.1  
National energy market—institutional framework



AEMC, Australian Energy Market Commission; AEMO, Australian Energy Market Operator; AER, Australian Energy Regulator; ACCC, Australian Competition and Consumer Commission; COAG, Council of Australia Governments; MCE, Ministerial Council on Energy; NEM, National Electricity Market.

**Table A.1 Energy regulation after implementation of national framework**

	QLD	NSW	ACT	VIC	SA	TAS	NT	WA	
Gas transmission	Australian Energy Regulator							Utilities Commission	Economic Regulation Authority
Gas distribution									
Electricity wholesale									
Electricity transmission									
Electricity distribution									
Retail (non-price)									
Retail (pricing)	QCA	IPART	ICRC	ESC	ESCOSA	OTTER and GPOC			
Rule changes	Australian Energy Market Commission								
Competition regulation	Australian Competition and Consumer Commission								

ESC, Essential Services Commission (Victoria); ESCOSA, Essential Services Commission of South Australia; GPOC, Government Prices Oversight Commission (Tasmania); ICRC, Independent Competition and Regulatory Commission (ACT); IPART, Independent Pricing and Regulatory Tribunal (New South Wales); OTTER, Office of the Tasmanian Economic Regulator; QCA, Queensland Competition Authority.

In September 2008 the AER released guidelines to assist gas network businesses and their customers to understand the AER's approach to the regulation of gas distribution businesses.

### Retail

The Retail Policy Working Group recommended retail functions for transfer to national regulation. It reviewed:

- > retailer obligations for supply to small customers
- > customer market contracts
- > marketing
- > business authorisations
- > ring-fencing
- > retailer failure arrangements (retailer of last resort).<sup>4</sup>

The MCE released a first exposure draft of the National Energy Customer Framework for consultation in April 2009. Under the draft legislation, the AER will:

- > be a gatekeeper for authorisation and exemptions
- > publish standing tariffs
- > monitor and enforce:
  - customer financial hardship policies
  - compliance with the terms of regulated contracts and rules
  - marketing conduct

- > issue guidance to market participants on how to apply the new framework and on the AER's enforcement strategy.

The MCE is expected to release a second exposure draft in late 2009, with the final legislative package to be introduced to the South Australian Parliament in the 2010 spring session. States and territories will transition to the national framework as it is adopted through legislation in each relevant jurisdiction.

### A.2.1 The Australian Energy Market Operator

In April 2007 COAG agreed to establish AEMO as a single, industry funded national energy market operator for both electricity and gas.<sup>5</sup> Established as a corporate entity that operates on a cost recovery basis, AEMO began operating on 1 July 2009. Its membership is split between government (60 per cent) and industry (40 per cent). Government members include the Australian Government and the state and territory governments of all jurisdictions in which AEMO operates.

<sup>4</sup> MCE, *Communiqué*, 19 May 2006.

<sup>5</sup> COAG, *Communiqué*, 13 April 2007.

The organisation merges the roles of the national electricity market operator (previously undertaken by the National Electricity Market Management Company) with the wholesale and retail gas market operators in New South Wales, the ACT, Queensland, Victoria and South Australia. It also assumes the state based electricity planning functions of VENCORP (in Victoria) and the Electricity Industry Supply Planning Council (in South Australia).

As the electricity market operator, AEMO manages the wholesale NEM and is responsible for scheduling and dispatching generating plant, managing transmission constraints and settling the market. In its gas market role, AEMO operates the Victorian wholesale spot market, wholesale arrangements in other states and territories (and, from 1 July 2010, the short term trading market), the Gas Market Bulletin Board and retail functions, including customer transfers and management of the daily allocation of gas use to retailers. It also oversees the system security of the NEM electricity grid and the Victorian gas transmission network.

The new functions of AEMO include:

- > planning and coordinating the development of the national electricity transmission network
- > preparing an annual Gas Statement of Opportunities (GSOO).

The National Transmission Planner (NTP) role aims to strengthen transmission planning arrangements in the NEM. In particular, it will move the planning focus away from priorities of individual jurisdictions, onto the national grid as a whole.

The NTP will publish an annual national transmission network development plan outlining the efficient development of the power system. The plan will provide a long term strategic outlook (minimum 20 years), focusing on national transmission flow paths. It will not replace local planning and will not be binding on transmission businesses or the AER. Rather, the plan will complement shorter term investment planning

by transmission businesses. A national transmission statement is to be published by the end of 2009 as a first step. The first full national transmission network development plan will be completed by the end of 2010.

The GSOO will be an annual publication similar to the current Electricity Statement of Opportunities. These two publications will provide 10 year outlooks for electricity and gas requirements across eastern and southern Australia. AEMO's first GSOO is scheduled for publication in December 2009.







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Commission