



Australian Government
Australian Renewable
Energy Agency

ARENA



AUSTRALIAN
ENERGY
REGULATOR

Memorandum of Understanding

Between

The Australian Energy Regulator

And

The Australian Renewable Energy Agency

This memorandum of understanding (**MOU**) sets out a framework for co-operation between the Australian Energy Regulator (**the AER**) and the Australian Renewable Energy Agency (**ARENA**) (**the agencies**) to facilitate liaison, consultation, co-operation, and the exchange of information between the agencies in the performance of their respective roles in Australia's energy markets.

Part A: Recitals

1 Purpose and principles

Purpose

- 1.1 The agencies recognise the importance of regular and open communication between them at both executive and officer levels. This communication will enhance the effectiveness of the agencies individually and collectively in fulfilling their roles.
- 1.2 The agencies will work together towards the effective development of energy markets in Australia, recognising that each agency has different roles and functions.
- 1.3 The agencies recognise that each has specific statutory responsibilities and these can be enhanced when the agencies have agreed reciprocal commitments.
- 1.4 The MOU is a statement of principles to guide the relationship between the agencies and the agencies do not intend this MOU to create legally binding obligations between them.

- 1.5 Nothing in the MOU affects the exercise of functions or responsibilities of the agencies.
- 1.6 The MOU is a public document and communicates, in a transparent way to all energy market stakeholders, the administrative arrangements that operate between the agencies.
- 1.7 The MOU will apply to current and future functions conferred on the agencies unless the relevant agency gives notice to the other agency that the MOU will not apply to such functions.

2 The agencies and their roles in energy markets

The AER

- 2.1 The AER operates under the *Competition and Consumer Act 2010* (Cth) to regulate energy networks, retailers, and wholesale markets. The AER Board is an independent entity, comprising five members who are statutory appointments.
- 2.2 The AER regulates electricity networks and covered gas pipelines, in all jurisdictions except Western Australia to set the amount of revenue that network businesses can recover from customers for using these networks. The AER enforces the laws for the National Electricity Market and spot gas markets in southern and eastern Australia, and monitors and reports on the conduct of market participants and the effectiveness of competition. The AER protects the interests of household and small business consumers by enforcing the Retail Law. Our retail energy market functions cover New South Wales, South Australia, Tasmania, the ACT and Queensland. The AER sets standing offer prices small business and residential customers pay in areas where there is no other retail price regulation – South Australia, New South Wales and south-east Queensland.

ARENA

- 2.3 ARENA is established under the *Australian Renewable Energy Agency Act 2011* (Cth) (**the ARENA Act**), with the objective of improving the competitiveness of renewable energy technologies and increasing the supply of renewable energy in Australia.
- 2.4 ARENA's purpose and functions are outlined in the ARENA Act. ARENA provides financial assistance to support innovation and the commercialisation of renewable energy and enabling technologies by helping to overcome technical and commercial barriers. A key part of ARENA's role is to collect, store and disseminate knowledge gained from the projects and activities it supports for use by the wider industry and Australia's energy market institutions.

Part B: Operational provisions

3 Exchange of information upon request

- 3.1 The agencies agree that, subject to legislative provisions, information available to one agency, which is relevant to the responsibilities of the other agency, will be shared as

requested, provided that compliance with the request will not adversely affect the operations of the complying agency.

- 3.2 For the purposes of paragraph 3.1 the AER considers it can support ARENA by providing information to inform the prioritisation and design of studies, projects, trials and demonstrations and their knowledge sharing requirements.
- 3.3 For the purposes of paragraph 3.1 ARENA considers it can support the AER's delivery of its statutory functions by providing information from ARENA funded studies, projects, trials and demonstrations.
- 3.4 Each agency will use its best endeavours to provide relevant information to the other agency in a timely manner.
- 3.5 In general, the agency that provides information (**the providing agency**) pursuant to a request made under the MOU will bear the cost incurred by it in locating and providing the information to the other agency (**the receiving agency**). If it appears to the providing agency that it will incur substantial costs in providing the information it may discuss this with the other agency and the agencies may negotiate a cost-sharing arrangement in relation to the provision of that information.
- 3.6 When exchanging confidential information, the agencies acknowledge the confidentiality and secrecy requirements of the respective Acts under which each agency operates. The providing agency has the right to specify the level of confidentiality attached to the information it provides to the other, and to place any caveats upon the use or disclosure of the information. Please also note all the requirements set out in paragraph 5 below, in the event that the receiving agency needs to disclose or use any of the received information by law, in a way which is inconsistent with the specifications or caveats provided by the providing agency around the use or disclosure of the information.

4 Information sharing

- 4.1 Each agency recognises that in the course of performing its functions and exercising its powers, information may come into its possession which would, if provided to the other agency, be likely to assist that other agency to fulfil its responsibilities.
- 4.2 Each agency agrees subject to legal restrictions, to use reasonable endeavours to notify the other agency in a timely manner of the existence of any information of a kind referred to in paragraph 4.1 above, notwithstanding that it may not have received a request from the agency for such information.

5 Confidentiality and privacy

- 5.1 The agencies must take all reasonable measures to protect unauthorised use or disclosure of information given to the agencies pursuant to this MOU.
- 5.2 Subject to 5.3 when an agency receives information from the other agency in accordance with this MOU, it will:

- 5.2.1 take all reasonable steps to ensure that such information is only used or disclosed for the purpose for which it was obtained, or as otherwise authorised by the other agency; and
- 5.2.2 will observe and comply with any express conditions placed upon use or disclosure of information by the other agency.
- 5.3 Without limiting the generality of paragraph 5.2 of the MOU, the agencies will, in relation to information provided under this MOU, comply with the Australian Privacy Principles set out in section 14 of the *Privacy Act 1988* (Cth).
- 5.4 If an agency is required by law to disclose confidential information received from the other agency, it must:
 - 5.4.1 immediately, and prior to any disclosure being made, notify the other agency of the disclosure requirement to allow the other agency to take all reasonable steps to maintain the confidentiality of the information required to be disclosed, including, if necessary and appropriate, making a claim for public interest immunity privilege or requiring confidentiality undertakings from the person or body to whom the information is required to be disclosed; and
 - 5.4.2 disclose only the confidential information required to comply with the applicable requirement
- 5.5 For the purposes of paragraph 5.4.1, "required by law" means required by any Act (including Commonwealth or State legislation), summons, subpoena, writ and order of any court, tribunal or other authority.

6 Consultation and co-operation

- 6.1 The agencies agree that there will be regular consultation and co-operation between them in relation to their respective functions, powers and duties.
- 6.2 As set out in paragraph 3.3, ARENA will provide information on ARENA funded studies, projects, trials and demonstrations, and other information that is relevant to the AER's functions in a timely manner.
- 6.3 ARENA will invite the AER to A-Lab and other relevant events.
- 6.3 The AER will offer briefings to ARENA on relevant review and regulatory processes and invite ARENA to participate in technical advisory groups where appropriate.
- 6.4 If requested, AER will provide advice to ARENA on its priorities and insights as relevant to ARENA funding strategies.

7 Liaison

- 7.1 The Chief Executive Officer of the AER and the Chief Executive Officer of ARENA or such other nominated executive from the respective agencies will meet at least once every six months to assess the operation of the MOU and the ongoing relationship between the agencies.
- 7.2 The AER and ARENA will also meet at an executive or senior officer level at least once every three months to discuss the implementation of this MOU and the

development of renewable energy technologies. Other contacts between staff of the agencies will take place as required.

- 7.3 Each agency will appoint a liaison contact officer for the purposes of general liaison, communication, and information sharing under this MOU. Each agency may change its liaison contact officer as necessary, and will update the other agency with current appointment details.

8 Distributed Energy Integration Program

- 8.1 The Distributed Energy Integration Program (DEIP) is a collaboration of energy peak bodies, market authorities, industry associations and consumers associations, aimed at maximising the value of customers' distributed resources for all energy users.
- 8.2 The AER has agreed to be part of the Steering Group of the DEIP and together with ARENA and the Australian Energy Market Operator (AEMO) will provide secretariat services in support of the DEIP.

9 Management of the MOU

Disagreements

- 9.1 In the event of any disagreement between the organisations as to the implementation of this MOU, the chief executive officers of the organisations (or their delegates) will seek to resolve the matter in accordance with the principles of this MOU.

Expiry and termination

- 9.2 The MOU will expire on 31 December 2022, unless terminated by earlier pursuant to paragraph 9.3.
- 9.3 Either agency may give written notice to the other agency of its intention to terminate this MOU. The MOU will terminate 30 calendar days after the date upon which the notice was received.

Publication

- 9.3 This MOU may be published by the organisations on their respective websites.

Dated: 22/07/2020



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LIZ DEVELIN
Chief Executive Officer
AER



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Chief Executive Officer
ARENA