

MEMORANDUM OF UNDERSTANDING

Between

**THE QUEENSLAND OFFICE OF FAIR TRADING
DEPARTMENT OF JUSTICE AND ATTORNEY – GENERAL**

and

ENERGY AND WATER OMBUDSMAN QUEENSLAND

This MEMORANDUM OF UNDERSTANDING (MoU) is an agreement between:

QUEENSLAND OFFICE OF FAIR TRADING (OFT) - Level 5, 63 George Street, Brisbane in the State of Queensland and

ENERGY AND WATER OMBUDSMAN QUEENSLAND (EWOQ) - Level 16, 53 Albert Street, Brisbane in the State of Queensland

1. DEFINITIONS

1.1. In this MoU:

"Small customers" means a domestic and small business customer whose annual electricity consumption is under 160 megawatt hours or annual gas consumption is under one terrajoule. Means any residential customer or any non-residential water customer whose annual consumption is under 100 kilolitres.

2. COMMENCEMENT DATE AND TERM OF AGREEMENT

- 2.1. This MoU replaces the previous MoU between EWOQ and OFT signed on 06 March 2013.
- 2.2. This MoU shall commence on the date the last party signs the MoU.
- 2.3. This MoU can be amended or terminated at any time by the written agreement of both parties.

3. OBJECTIVES

3.1. This MoU seeks to:

- a) ensure that the regulatory, advisory and decision making practices of EWOQ and OFT concerning the Queensland energy and water market are closely integrated and well informed;
- b) Avoid overlap or conflict between regulatory responsibilities affecting consumers in the Queensland energy and water marketplace;
- c) provide for sharing of information between the parties in the context of their respective roles in assisting to resolve complaints and disputes between energy and water entities and small customers;
- d) promote the adoption of best practice to energy marketplace regulation; and
- e) assist EWOQ and OFT in performing their respective functions under relevant legislation.

- 3.2. The EWOQ is responsible under the *Energy and Water Ombudsman Act 2006* (the Act) to receive and investigate, and facilitate the resolution of, disputes referred under the Act.
- 3.3. The parties have entered into this MoU to provide for consultation and the integration and coordination of their responsibilities under the Australian Consumer Law (ACL), the Act and other Acts and associated regulations falling within the jurisdiction of each party including but not limited to:
- a) the conduct of any enquiry or investigation;
 - b) the making or amending of an industry code; and
 - c) investigating a possible contravention of an Act or industry code.

4. THE ROLE OF THE OFT

- 4.1. The Commissioner for Fair Trading is responsible for administering the ACL, including:
- a) maintaining a contemporary regulatory framework that balances business and consumer needs in the marketplace;
 - b) monitoring compliance with fair trading standards and legislation and initiating enforcement action as appropriate;
 - c) maintaining effective licensing and registration systems for a range of industries and occupations but not including energy providers;
 - d) providing fair trading information and advice to business and consumers;
 - e) providing access to appropriate redress for consumers; and
 - f) resolving disputes and investigating complaints.
- 4.2. The following legislation and subordinate legislation are relevant to this MoU and outlines the roles and responsibilities of OFT:
- *Fair Trading Act 1989* (Qld)
 - The Australian Consumer Law

5. THE ROLE OF EWOQ

- 5.1. EWOQ under the Act will be the "one-stop-shop" for lodgment of complaints and has responsibility to:
- a) receive, investigate and facilitate resolution of disputes referred under the Act;
 - b) resolve disputes and make orders, if they cannot be resolved by agreement, negotiation or mediation;
 - c) promote the operation of the *Energy and Water Ombudsman Act 2006* to small customers and relevant occupiers of land;
 - d) identify systemic issues arising out of complaints anyone made to EWOQ; and
 - e) deal with any other functions conferred on EWOQ under any Act.
- 5.2. The following legislation and subordinate legislation are relevant to this MoU and outline the roles and responsibilities of EWOQ:
- *Energy and Water Ombudsman Act 2006*

Electricity

- *Electricity Act 1994*
- *Electricity Regulation 2006*
- *Electricity – National Scheme (Queensland) Act 1997*
- *National Electricity (Queensland) Law*
- *NERL ((Qld)*

Gas

- *Gas Supply Act 2003*
- *National Gas (Queensland) Act 2008*
- *National Gas (Queensland) Law*

Water

- *South East Queensland Water Distribution and Retail Restructuring) Act*
 - *2009 Water Act 2000*
 - *Water Supply (Safety and Reliability) Act 2008*
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6. HOW THE PARTIES WILL CONSULT

- 6.1. Each party having regard to their respective roles will:
- a) Consult with and involve the other in the performance of any investigation that has or is likely to have material implications for the other;
 - b) ensure that such consultation occurs as early as practicable in the parties' regulatory, advisory or decision making processes;
 - c) on written request, provide the other with timely advice on regulatory matters for which it is responsible;
 - d) provide the other with timely relevant information on industry issues for which both parties have some responsibility;
 - e) promptly inform the other of any material changes to its role or to the regulatory arrangements it administers;
 - f) exchange details of annual work programs to the extent that they are relevant to the role of the other;
 - g) provide the other with advance notice of its intention to undertake a major review or activity that will or may have material implications for the other;
 - h) identify opportunities to coordinate strategic planning and undertake knowledge sharing initiatives to optimise material understanding of roles and strategic directions; and
 - i) identify relevant project officers to allow for the coordination of particular regulatory projects.
- 6.2. Each party having regard to their respective roles must maintain information and records and provide copies of the records to the other party's designated officer at stated times or when requested.

7. HOW THE PARTIES WILL MANAGE THEIR RELATIONSHIP

- 7.1. Each party will ensure that, at all times while this MoU is in force, one or more of its staff members is designated and known to the other as its contact officer for the purposes of this MoU.
- 7.2. At the date of this MoU, the contact officer at the OFT is the Director, Complaint and Program Coordination and the contact officer for EWOQ is the General Manager Assessment, Investigation and Resolution. Each party will give notice of any change to its contact officer to the other, promptly after the change is made.
- 7.3. Each party will ensure that its contact officer:
- a) Makes themselves (or a nominated officer/s) available at all relevant times to address any questions, concerns or disputes arising out of the operation of this MoU which are raised by either party;
 - b) Instigates periodic (and in any event not less than three years) reviews of this MoU directed, in particular, to the potential for improvement in its terms or operation and to the effect (if any) of regulatory change on its terms, operation or utility; and
 - c) Arranges (in conjunction with the other's contact officer) such meetings of appropriate staff of the parties as and when necessary or desirable to facilitate the efficient and effective operation of this MoU.

8. DISPUTES

- 8.1. If there is a dispute between the parties as to the terms or operation of this MoU, each party will ensure that its contact officer endeavours in good faith to resolve that dispute with the other's contact officer.
- 8.2. In the event that an investigation or resolution of a dispute is submitted to each of EWOQ and the OFT to avoid overlap or conflict of reporting the parties will agree to, where practicable, align reporting requirements to reduce duplication of reporting.

9. USE AND DISCLOSURE OF INFORMATION

- 9.1. Each party will use and disclose to the other party and information arising from the obligations established by the legislation listed at clause 4.2 and 5.2 of this MoU.
- 9.2. Each party will treat all confidential information of the other party as confidential and will not, without the prior written consent of the other party, disclose or permit it to be disclosed to any other person.
- 9.3. In the event that a complaint is to be referred to the other party's agency for investigation the referring party's agency shall first seek the approval of the other party's agency to refer the matter for investigation, before it is referred.
- 9.4. In the event that prosecution action is to be commenced by the OFT for an offence under the ACL, the OFT shall, prior to the commencement of proceedings, consult the EWOQ where possible breaches of the Acts listed at 5.2 of this MoU may have also occurred.
- 9.5. In the event that prosecution action is to be commenced by the EWOQ for an offence under the acts listed at 5.2 of this MoU, the EWOQ shall, prior to the commencement of proceedings, consult the OFT where possible breaches of the ACL may have also occurred.