

NATIONAL ELECTRICITY LAW AND NATIONAL GAS LAW AMENDMENT PACKAGE

The Council of Australian Governments (COAG) Energy Council's Energy Working Group has released draft Bills relating to amendments to the National Electricity Law (NEL) and the National Gas Law (NGL).

The proposed amendments are:

- remove barriers to the Australian Energy Regulator (AER) collecting and publishing information for the purposes of benchmarking; and
- introduce an explicit wholesale market monitoring function for the AER into the NEL.

Information collection and publication

The Energy Council has committed to ensure the AER has sufficient and clear powers to collect and publish data as part of its responsibility for economic regulation of network service providers under the NEL and NGL.

The Energy Council agreed to amend the NEL and NGL to clarify the AER's functions and powers in respect of:

- compulsory powers to collect information;
- performance reporting functions, including annual benchmarking reports; and
- the publication of information.

These changes will remove the restriction on the AER issuing regulatory information instruments to obtain data solely for the purpose of performance reports. They will impose an up-front obligation on service providers to make an express claim of confidentiality when submitting the information and to provide justification at that time. They will also include transitional arrangements to ensure that information provided to the AER in confidence before the commencement of these legislative amendments will not be subject to the new provisions.

Wholesale market monitoring

The Australian Energy Market Commission (AEMC) received a rule change request from the Major Energy Users (MEU) seeking to address vulnerabilities in the National Electricity Market's (NEM) market design and regulatory regime. The AEMC published its final determination in April 2013 on the Potential Generator Market Power in the NEM. While not changing any rules, the AEMC recognised that the presence of barriers to entry or structural factors may raise the possibility that the wholesale electricity market is not workably

competitive. The Energy Council agreed to the AEMC's recommendation to introduce an explicit wholesale market monitoring function for the AER by amending the Law.

Law amendments will:

- require the AER to undertake a market review task;
- require the AER to publish, not less than every two years, a wholesale market review report containing the results of the monitoring;
- introduce explicit provisions around the AER process to seek additional information and the terms of confidentiality.

Consultation on the draft legislation

As part of this process officials are undertaking public consultation on the legislative amendments package and are calling for written submissions from stakeholders. Submissions are due by close of business (AEST) on Tuesday, 15 March 2016. The legislative package accompanying this bulletin contains an explanatory note and the following instruments for comment:

- Statutes Amendment (National Electricity and Gas Laws – Information Collection and Publication) Bill 2015.
- National Electricity (South Australia) (Australian Energy Regulator – Wholesale Market Monitoring) Amendment Bill 2015.

All stakeholder submissions received on the legislative amendments package will be published on the Energy Council website unless stakeholders indicate that the submission should remain confidential, either in whole or in part. Electronic submissions are preferred and can be sent to the Energy Council Secretariat at energycouncil@industry.gov.au.

If you wish to provide a hard copy submission, please post your submission to:

Manager, COAG Energy Council Secretariat
Department of Industry, Innovation and Science
GPO Box 9839
Canberra ACT 2601.

Should you have any enquiries, please contact the Energy Council Secretariat at energycouncil@industry.gov.au.

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