

MINISTERIAL COUNCIL ON ENERGY

Communiqué

Darwin, 19 May 2006

The Ministerial Council on Energy (MCE) held its eleventh meeting on Friday, 19 May 2006, in Darwin. The meeting was chaired by the Hon Ian Macfarlane MP, Australian Government Minister for Industry, Tourism and Resources. The Council comprises Australian Government, State and Territory Ministers with responsibility for national policy and governance of the Australian energy market.

Ministers noted that the Council of Australian Governments is expected shortly to endorse amendments to the *Australian Energy Market Agreement 2004* (AEMA). These amendments provide for:

- transfer of retail and distribution regulation (other than retail pricing) to a national framework in an agreed timeframe;
- agreement to National Distribution and Retail functions to be implemented in new national rules by 1 January 2008;
- a process for providing advice to jurisdictions on the effectiveness of competition in retail markets; and
- arrangements for the certification of energy access regimes on a nationally consistent basis.

The MCE will aim to deliver on key commitments outlined in the amended AEMA through the delivery of the 2006 legislative package. Ministers endorsed the direction of a 2006 legislative package which includes the new National Gas Law (NGL) and Rules and amendments to the National Electricity Law (NEL) and Rules.

The key components of the 2006 legislative package are:

- the transfer of economic regulation of distribution to the Australian Energy Regulator (AER) and Australian Energy Market Commission (AEMC) from 1 January 2007;
- the implementation of the MCE Response to the Productivity Commission Review of the Gas Access Regime released on 9 May 2006 including light-handed regulatory approaches, a common objects clause and incentives for greenfields pipelines;
- a limited merits review model for both gas and electricity consistent with the MCE decision to be released shortly;
- the MCE's response to the report of its Expert Panel on Revenue and Network Pricing adopting recommendations on pricing principles and a 'fit-for-purpose' decision making framework; and
- amendments to the *Australian Energy Market Commission Establishment Act 2004* to implement the MCE's November 2005 decision to establish a long-term consumer advocacy funding model for both gas and electricity advocacy.

Ministers noted that consultation with stakeholders on exposure drafts of the laws and rules will be an integral part of the process. Ministers anticipate that exposure drafts of the NGL and amended NEL will be released for public consultation late July 2006. Exposure drafts of the Rules are also expected to be released at that time or soon afterwards. It is expected that introduction of the NGL and amended NEL to the South Australian Parliament will be in late October/November 2006.

In addition to the 2006 legislative package, the MCE announced that it will shortly be commencing work on a legislative package for 2007 that will give effect to the transfer of regulation of distribution (non-economic) and retail (non-price) functions to the AER and AEMC. Ministers agreed that a stakeholder reference group of industry, users and regulators be established to comment on the recommendations for the national framework for distribution (non-economic) and retail functions. Retail price control will be retained by the States and Territories unless they choose to transfer such arrangements to the AER and the AEMC. Further details on the completion of work on the national framework for distribution (non-economic) and retail regulation are outlined in the attachment.

Ministers also reviewed progress against the new initiatives set for the MCE by COAG at its meeting on 10 February 2006. These initiatives include implementing a progressive roll out of electricity smart meters that has regard to costs and benefits and takes into account different market circumstances in each state and territory; implementing a comprehensive and enhanced work program to establish effective demand side response mechanisms in the electricity market; and ensuring the separation of generation and transmission activities under the NEL.

In monitoring work being undertaken by the National Gas Emergency Response Advisory Committee (NGERAC), comprising government officials and industry stakeholders, MCE noted that fine tuning of the gas emergency protocol was under way with the proposed engagement of an expert to undertake emergency simulations in 2006, and with the conduct of further work on industry reporting and triggers to notify the NGERAC of a gas incident.

Ministers noted some of the major achievements of the National Framework for Energy Efficiency (NFEE), a program of measures aimed at improving Australia's end-use energy efficiency performance by advancing national coordination and consistency, since its commencement in December 2004 including:

- The expanded program of work on energy labelling and minimum energy performance standards for appliance and equipment in the industrial, commercial and residential sectors, is projected to yield an economic benefit to Australia of \$4.8 billion by 2020;
- Commencement of Energy Efficiency Opportunities from 1 July 2006 with approximately 60% of business energy use being regularly assessed; and
- Energy efficiency requirements now incorporated in the Building Code of Australia for commercial buildings and enhanced measures for residential buildings.

MCE agreed that it would consider, at the end of 2006, possible further measures to expand NFEE which may include broad-based incentives; drawing on key findings from the Productivity Commission Inquiry on Energy Efficiency; focussing on the business sector not covered by Energy Efficiency Opportunities; and by leveraging from other initiatives such as smart metering and Solar Cities.

Ministers noted that scoping work is currently being conducted under NFEE focussing on improving energy efficiency training for trades and professions. However, in recognition of Australia's skill shortages, Ministers tasked the Standing Committee of Officials with examining measures that the MCE, in collaboration with the Ministerial Council on Vocational and Technical Education and the Ministerial Council for Employment, Education, Training and Youth Affairs, could take to address skill shortages in other areas of the energy sector.

Ministers agreed that their next meeting will be in Sydney in October 2006.

End

Completion of the work on the national framework for distribution and retail regulation

The MCE's decision on the Expert Panel on Energy Access Pricing will settle the economic regulation component of the national framework for the regulation of distribution and retail services. The decision will be implemented in the 2006 legislative package.

There will be a legislative package and associated Rules in 2007 to complete the transfer to the AEMC and AER of the national distribution and retail functions listed at Annexure 2 to the amended AEMA.

The MCE has agreed a work program to develop recommendations on the national distribution (non-economic) and retail functions.

The work program provides for the recommendations to be developed by an MCE SCO Retail Policy Working Group (RPWG) in consultation with stakeholders and with the assistance of expert legal advice.

The RPWG has been instructed to prepare recommendations, including any proposals for further work, for the MCE in early 2007. A consolidated paper of recommendations will be released for general public consultation, prior to settling a final set of recommendations for decision by the MCE and preparation of national legislation to commence the national framework on 1 January 2008.

The RPWG will convene a stakeholder reference group of industry, users and regulators to comment on the recommendations for the national framework as they are developed. The reference group will be drawn initially from nominations from peak industry, user and consumer associations and representatives of existing federal, State, and Territory energy regulators.

The use of a stakeholder reference group and the public consultation on recommendations will ensure the experience and views of industry, users, consumers and regulatory administrators are considered in developing the recommendations to be put to the MCE.

The principal areas of work for the RPWG will be those matters listed under *Consumer Protection* and *Other Distribution and Non-Price Retail Regulation* in the MCE's May 2005 consultation paper prepared by NERA/Gilbert + Tobin ("Public Consultation on a National Framework for Energy Distribution and Retail Regulation").

The principal areas of work for the RPWG as listed in the NERA/Gilbert + Tobin Consultation Paper are:

Consumer Protection

- Distributor obligation to provide connection services;
- Distributor disconnections and reconnections of small end customers;
- Distributor small end customer dispute resolution;
- Retailer obligation to supply to small end customer;
- Retailer small end customer market contracts;

- Retail small end customer marketing;
- National obligation for retailer small end customer dispute resolution.

Other Distribution and Non-Price Retail Regulation

- Business authorisation;
 - Distributor interface with retailers
 - Distributor interface with embedded generators;
 - Balancing regime and settlements effecting customer transfer;
 - Metering;
 - Load shedding and curtailment;
 - Retailer failure arrangements;
 - Ring-fencing arrangements;
 - Jurisdiction-specific requirements;
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