

1 April 2004

MoU Framework
C/- MCE Market Reform
Department of Industry, Tourism and Resources
GPO Box 9839
Canberra ACT 2601

Via email: MCEMarketReform@industry.gov.au

Dear Sir

AER-AEMC-ACCC Memorandum of Understanding Framework

Thank you for the opportunity to comment on the MoU Framework.

In large part, the content of this MoU flows from the Governance framework and this submission makes no comment on this issue. There is consequently only one issue we wish to raise.

The original Parer recommendation was for an independent national energy regulator. The negotiation process has led to an outcome in which the AER has been established as a “constituent part” of the ACCC. We believe that it is important that the AER maintain its independence from the ACCC to the maximum extent possible within the existing structure. The MoU conveys a flavour that staff will be continually interchanged to the extent that it may become very difficult to distinguish the ACCC from the AER. We consider this an undesirable outcome.

In relation to the ACCC’s general TPA issues, it manages to prosecute its obligations quite effectively with no access to specialist resources. It should be able to achieve this for energy related TPA issues in the same way. The recent AGLvACCC case should have removed many of the current misplaced market power concerns which have been discussed over the last three years.

We would like to see the MoU specify a minimum secondment of 2 or 3 years and less emphasis on the need for AER staff to assist with ACCC issues. AER staff should be clearly under the control of the AER and dedicated to

AER functions. The AER should operate in an arms length relationship to ACCC. This does not preclude the opportunity for co-operation. A similar minimum period should be applied in the event that staff are seconded to AEMC from ACCC.

If you have any queries, please contact David Bowker on 03-62305775

Yours faithfully

GL Willis
Chief Executive Officer