



**MEMORANDUM OF UNDERSTANDING**

**BETWEEN THE**

**DEPARTMENT OF CONSUMER AND EMPLOYMENT  
PROTECTION**

**AND THE**

**ENERGY OMBUDSMAN,  
WESTERN AUSTRALIA**

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**1 PURPOSE**

- 1.1 The purpose of this Memorandum of Understanding (MOU) is to establish an agreed framework for mutual cooperation between the Department of Consumer and Employment Protection (DOCEP) and the Electricity Ombudsman and Gas Industry Ombudsman Western Australia ("Energy Ombudsman") in relation to the regulation of the electricity and gas industries in Western Australia. In this memorandum, "ESD" is used to describe the EnergySafety Division of DOCEP, whereas "DES" is used to describe the Director of Energy Safety, a statutory office that heads the EnergySafety Division of DOCEP.
- 1.2 The Energy Ombudsman and DOCEP (the Agencies) recognise that mutual cooperation between them will contribute significantly to the ability of the Agencies to effectively and efficiently discharge their respective functions.
- 1.3 The Agencies agree to provide each other with mutual assistance in relation to the exchange of information, appropriate referral of matters, and cooperation in compliance, information and enforcement activities within the framework of this MOU and consistent with all relevant law. In particular, the DES agrees to provide technical advice and support to the Energy Ombudsman, as covered by this MOU.

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## **THE ENERGY OMBUDSMAN**

- 1.4 The Energy Ombudsman is an independent entity established by the *Parliamentary Commissioner Act 1971* and has the functions set out in that Act and specific functions in relation to the energy industry as provided for under:
- Part 2D of the *Energy Coordination Act 1994*;
  - Part 7 of the *Electricity Industry Act 2004*; and
  - The *Electricity Industry (Ombudsman Scheme) Regulations 2005*.

## **THE DIRECTOR OF ENERGY SAFETY (AND ENERGYSAFETY DIVISION OF DOCEP)**

- 1.5 The office of the DES as an independent energy industry technical and safety regulator<sup>1</sup> was established by s.7 of the *Energy Coordination Act 1994* and the functions of the DES are set out in various items of legislation. In summary, the DES is supported by the staff of ESD, which is also an active participant in the State's emergency management framework, with particular responsibilities for –
- managing liquid fuel shortage emergencies;
  - managing gas supply emergencies;
  - promoting energy infrastructure security; and
  - representing lifeline organisations (e.g. water, electricity, gas, telecommunications, and main roads organisations) at State Emergency Management Committee level.

## **2 LIAISON BETWEEN AGENCIES**

- 2.1 The Agencies agree that there will be a liaison meeting at least once yearly between the Energy Ombudsman, the Energy Ombudsman's Senior Officer principally dealing with energy-related issues, DOCEP's Director General and the DES, and that this meeting may include other senior members of staff as considered appropriate, to discuss matters relating to the Agencies' functions.
- 2.2 Operational liaison at their own level will take place as is considered necessary or desirable by senior staff of the Agencies.

## **3 TECHNICAL ADVICE AND SUPPORT BY ESD TO THE ENERGY OMBUDSMAN**

- 3.1 ESD has staff with electricity and gas technical expertise. It is agreed in principle that the Energy Ombudsman may at any time request the ESD to provide technical advice and support that the Energy Ombudsman considers necessary or desirable for the performance of his/her functions. The type of advice and support likely to be sought is shown in Schedule 1, which is intended only to be an indicative list to show the broad scope of possible interaction.

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<sup>1</sup> Safety regulation of gas transmission (at 1.9 mega Pascals or above) and upstream gas production is administered by the Resources Safety Division of DOCEP

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3.2 Requests for advice and support will be in writing (e.g. letter, email etc), may be initiated by any of the senior staff of the Energy Ombudsman and may be directed to any of the senior staff of the ESD. However, nothing in this MOU is to be interpreted as meaning that the Energy Ombudsman may not alternatively or additionally obtain technical advice and support from other persons.

3.3 The DES or his senior staff will acknowledge any request per Clause 3.2 and respond without undue delay in writing, to advise whether or not it is possible to satisfy the request within the timeframe requested or expected. Work on the request will then progress as agreed.

#### **4 REFERRAL OF MATTERS**

4.1 If an Agency receives a matter which, in its opinion, is more appropriately dealt with by the other Agency then, consistent with written law (including regulations and Codes), the Agency may refer that matter to the other Agency to be dealt with.

4.2 For the avoidance of doubt, nothing in Clause 4.1 obliges an Agency to accept a matter referred to it by the other Agency pursuant to Clause 4.1.

#### **5 CONFIDENTIALITY**

5.1 When an Agency receives information from the other Agency in accordance with this MOU, it will take all reasonable steps to ensure such information is only used or disclosed for the purpose for which it was obtained, or as otherwise authorised by the other Agency, consistent with written law. If an Agency intends to use or disclose information other than for the purpose for which it was obtained, it must inform the other Agency before the use or disclosure of the information unless the use or disclosure is required by written law.

5.2 If a request made to one Agency ('First Agency') under Freedom of Information legislation requires on its face the release of information obtained by the First Agency from the other Agency ('Second Agency'), the First Agency must consult with the Second Agency prior to any release of information pursuant to the request.

#### **6 COST OF PROVISION OF TECHNICAL ADVICE, SUPPORT AND INFORMATION GENERALLY**

6.1 In general, the Agency providing information, advice or assistance to the other will bear the whole cost incurred by it in researching, developing and providing the information, advice or assistance.

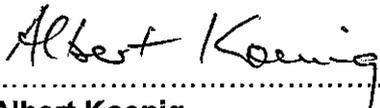
6.2 Notwithstanding the provisions of Clause 6.1, if the ESD is asked by the Energy Ombudsman to provide advice and support services which are beyond its capacity to deliver, then the Energy Ombudsman may, at his/her discretion, request the DES to engage additional, temporary resources for the work, subject to the related estimated cost being agreed between the Agencies and the Energy Ombudsman agreeing to reimburse ESD accordingly.

**7 REVIEW AND TERMINATION**

7.1 The Agencies agree that this MOU may be reviewed and amended at any time.

7.2 An Agency must give written notice to the other of its intention to terminate this MOU. The MOU will terminate seven days after the date upon which the notice was received.

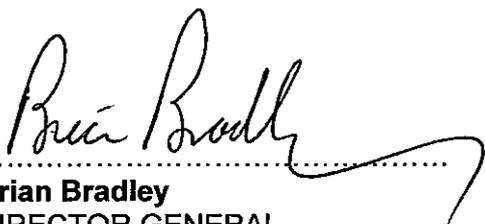
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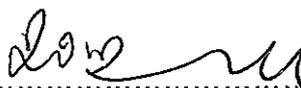
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**Albert Koenig**  
DIRECTOR OF ENERGY SAFETY and  
EXECUTIVE DIRECTOR,  
ENERGY SAFETY DIVISION  
DEPARTMENT OF CONSUMER &  
EMPLOYMENT PROTECTION



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**Wayne Mann**  
MANAGER, ENERGY  
OFFICE OF THE PARLIAMENTARY  
COMMISSIONER FOR ADMINISTRATIVE  
INVESTIGATIONS



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**Brian Bradley**  
DIRECTOR GENERAL  
DEPARTMENT OF CONSUMER &  
EMPLOYMENT PROTECTION



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**Deirdre O'Donnell**  
ENERGY OMBUDSMAN

**INDICATIVE SCOPE OF ADVICE AND SUPPORT TO BE PROVIDED BY ESD**

It is expected that the matters on which EnergySafety may be asked to provide technical advice and support will include the following:

- a) Investigating complaints by consumers about the reliability and quality of electricity or gas supplied, and providing related advice. The relevant regulatory instruments being –
  - the *Electricity Industry (Ombudsman Scheme) Regulations 2005*;
  - the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*;
  - and
  - the *Gas Standards (Supply Standards and System Safety) Regulations 2000*.
- b) Assisting the Energy Ombudsman in relation to certain complaints raised under (a) above, by advising whether or not electricity or gas supply failures or problems are likely to have resulted in electrical or gas appliance / equipment damage or other property loss to the consumer and whether the relevant electricity or gas transmitter/distributor should carry some responsibility for the damage or loss, due to a failure to comply with regulatory requirements or good industry practice.
- c) Investigating complaints by consumers concerning the safety of electricity or gas transmission/distribution by network operators or LPG distributors, and providing related advice. The relevant regulatory instruments being –
  - the *Electricity (Supply Standards and System Safety) Regulations 2001* ; and
  - the *Gas Standards (Supply Standards and System Safety) Regulations 2000*.
- d) Assisting the Energy Ombudsman in relation to certain complaints raised under (c) above, by advising whether or not electricity or gas transmission/distribution safety failures or problems are likely to have resulted in damage or other property loss to the consumer and whether the relevant electricity or gas transmitter/distributor should carry some responsibility for the damage or loss, due to a failure to comply with regulatory requirements or good industry practice.
- e) Assisting the Energy Ombudsman with complaints from land occupiers required by electricity network operators to maintain vegetation adequately clear from overhead power lines, for reasons of safety and supply quality and reliability. The ESD developed and issued document *Guidelines for the Management of Vegetation Near Power Lines* (which was formally agreed with Western Power and issued during mid 2006) is the relevant standard.
- f) Advising the Energy Ombudsman on consumer complaints concerning electricity or gas meter accuracy.
- g) Providing advice to the Energy Ombudsman on consumer complaints regarding the performance of safety inspections of electrical and gas installations by electricity and gas transmitters/distributors.
- h) Providing advice to the Energy Ombudsman on electricity and gas technical matters generally, to assist the Energy Ombudsman to deal with a variety of enquiries and issues, and to report on industry performance.