



Australian Energy Market Amendment (AEMO and Other Measures) Bill 2009

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Australian Energy Market Amendment (AEMO and Other Measures) Bill 2009

Date introduced: 12 February 2009

House: House of Representatives

Portfolio: Resources, Energy and Tourism

Commencement: Sections 1 to 3 on the day of Royal Assent; Schedule 1, items 1-6, 12 and 14 on the day after Royal Assent; Schedule 1, items 7 to 11 and item 12, on a single day to be fixed by proclamation or if any of the provisions do not commence within 6 months from the day or Royal Assent, then they commence the first day after that period.

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The Bill proposes minor consequential amendments to relevant Commonwealth legislation in line with the implementation of co-operative energy reform legislation being passed in other jurisdictions.

Background

The optimal functioning of Australia's energy supply system has a vital role to play in the sustainable development of the Australia's economy and the improvement of community living standards.

At a meeting of the Council of Australian Governments (COAG) on 13 April 2007, COAG agreed to establish a single, industry-funded national energy market operator to be called the Australian Energy Market Operator (AEMO).

It was envisaged that the AEMO, governed by an independent skills-based board, and subject to more robust accountability provisions, would combine administration of the National Electricity Market (NEM), a new NEM transmission planning function, and new gas market development functions. This represented another step in the evolution of

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Australia's energy market, designed to enhance the national character and operational consistency of energy market governance.¹

It was also decided that the [Ministerial Council on Energy \(MCE\)](#)² would be responsible for the implementation of this initiative.

AEMO is due to commence its operations on 1 July 2009.

It is stated that:

All current functions carried out by NEMMCO³ will be retained, including an expanded [national] transmission planning role [...]. Furthermore, AEMO will include functions carried out by VENCORP (Victoria), Gas Market Company (NSW) and REMCO (SA), and new gas functions - a gas bulletin board and short-term trading market.

AEMO will be run by a skills-based board comprising nine non-Executive Directors and a CEO. The skillset for the board will include finance, legal, economics/public policy, IT and energy sector knowledge (operations and development).⁴

Financial implications

The Explanatory Memorandum states that there is no financial impact.⁵

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1. Department of Resource, Energy and Tourism, 'Australian Energy Market Operator', at: http://www.ret.gov.au/energy/energy_markets/energy_market_institutions/operator/Pages/default.aspx, accessed on 10 March 2009.
 2. The MCE is the national policy and governance body Australia's energy market.
 3. "The National Electricity Market Management Company (NEMMCO) is the market operator of the National Electricity Market and the system operator of the national grid.

NEMMCO was established in 1996 to administer and manage the NEM, develop the market and continually improve its efficiency. The governments of Queensland, New South Wales, the Australian Capital Territory, Victoria, South Australia and Tasmania are members of NEMMCO. Each of these governments nominates a director to the NEMMCO board."

Directly sourced from: *NEMMCO Corporate Information*, at: http://www.nemmco.com.au/corpinfo/corporate_information.html, accessed on 19 February 2009.

4. Fact Sheet 1: AEMO overview, at: <http://www.nemmco.com.au/corpinfo/000-0269.pdf>, accessed on 19 February 2009.

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Main provisions

Schedule 1 — Amendments

Western Australia will soon become a participant in the national framework for regulating access to gas pipeline services. In 2008, a Bill aimed at applying the ‘National Gas Access Law’ was introduced into the Western Australian Parliament. However, the Parliament was prorogued prior to the Bill being passed. The legislation applying the National Gas Access Law is now expected to commence in the first half of 2009 (the WA Application Act). The delay has been accompanied by a change in the title of the legislation. Hence, the relevant amendments referred to below, reflect this date and name change.

Administrative Decisions (Judicial Review) Act 1977

Schedule 3 of this Act deals with State, Australian Capital Territory and Northern Territory Acts, and parts of such Acts, that are enactments for the purposes of the Act.⁶ **Item 1** proposes an amendment to **paragraph 2(dab) of Schedule 3** of the Act to reflect a change of name in the Western Australian gas legislation. “(Western Australia) Act 2008” is omitted and replaced with “(WA) Act 2009”.

Australian Energy Market Act 2004

Items 2, 3, 4, 5 and 6 propose amendments to **section 3, subsections 11J(1) and (2); section 11K; paragraph 11R(2)(a); subsection 11R(3)** of this Act. These amendments reflect a change in name and date of Western Australian gas legislation. “(Western Australia) Act 2008” is omitted and replaced with “(WA) Act 2009”.

Renewable Energy (Electricity) Act 2000

Item 8 repeals the definition of NEMMCO in **subsection 5(1)** -the definitions section of this Act. Hence, reference will no longer be made to NEMMCO. Rather, **item 9** proposes the insertion of a new definition in **subsection 5(1): AEMO** would have the same meaning as in the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* of South Australia.

Items 9, 10 and 11 also propose to replace references to NEMMCO in the Act with a reference to AEMO.

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5. Explanatory Memorandum, Australian Energy Market Amendment (AEMO and Other Measures) Bill 2009, p. 3.
 6. This means that relevant decisions made under these Acts would potentially subject to judicial review.

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Trade Practices Act 1974

Item 12 proposes to amend **subsection 4(1)** of the Act, correcting the reference to the WA Application Act, as proposed in **items 1 to 6**.

Item 13 replaces a reference to NEMMCO in the Act with a reference to AEMO.

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