

MEMORANDUM OF UNDERSTANDING

SMALL BUSINESS COMMISSIONER

and

ENERGY AND WATER OMBUDSMAN (SA) LIMITED

September 2017

1. Purpose

- 1.1. This memorandum of understanding ("MoU") sets out arrangements to promote effective communication, co-operation and co-ordination between the Energy and Water Ombudsman (SA) Limited (the "Company" or the "Energy & Water Ombudsman SA") and the Office of the Small Business Commissioner ("OSBC") (together referred to as the "Parties") in performing their roles and functions in South Australia's energy and water industries and the consumers. These arrangements aim to enhance the understanding of consumer protection issues, in relation to the national energy market and water industry, and the performance by the Ombudsman and the Small Business Commissioner of their respective roles.
- 1.2. This MoU is a public document and communicates, in a transparent way to all stakeholders, the administrative arrangements that operate between the Parties.

2. Parties to the Understanding

2.1 Small Business Commissioner

The Office of the Small Business Commissioner was created by the South Australian Government in March 2012 primarily to assist small business. As an independent statutory authority, the OSBC monitors and works with small businesses to resolve disputes with other small businesses, landlords and Local and State Government bodies across the State.

Services provided by the OSBC include:

- Receiving and investigating complaints made by or on behalf of small businesses regarding their commercial disputes with other small businesses, landlords and Local and State Government bodies across the State;
- Facilitating the resolution of such complaints through measures considered appropriate by the Commissioner. Such measures include mediation and making representations on behalf of small business;
- Monitoring, investigating and enforcing non-compliance with Industry Codes (where prescribed) that may adversely affect small business; and
- Investigating market practices that may adversely affect small business.

The Small Business Commissioner is responsible for:

- Providing independent advice and recommendations to the Government of the day in relation to small business issues;
- Making representations to the Minister and other groups as required;
- Making submissions to relevant inquiries and matters at various levels; and
- Advocating for the sector.

2.2 Energy and Water Ombudsman (SA) Limited

The Energy & Water Ombudsman SA is an independent body established to investigate and resolve disputes between customers and their electricity, gas and water and sewerage providers in South Australia.

In summary the jurisdiction of the Energy & Water Ombudsman SA, as set out in the Constitution of the Company, extends to:

- the supply, or failure to supply electricity, gas or water and sewerage services;
- billing disputes;
- the administration of credit and payment services;

- disconnection and security deposits;
- land or property access;
- referrals from the Essential Services Commission of South Australia, the Australian Energy Regulator or the Office of the Australian Information Commissioner;
- behaviour of electricity, gas and water entity staff, contractors and agents including sales and marketing;
- complaints about acts or practices of the Scheme members that may be an interference with the privacy of an individual under the *Privacy Act 1988*; and
- other areas by agreement.

The functions of the Energy & Water Ombudsman SA do not extend to complaints relating to:

- electricity, gas, water or sewerage pricing policies and tariff structures;
- Government policies, legislation, licences and codes;
- commercial activities of members that are outside the scope of their licence;
- complaints that have already been considered by a Court, tribunal or arbitrator;
- Customer contributions to the cost of capital works; or
- disputes between Members of the Company.

3. Complaint Referral Arrangements

3.1 Referral of complaints

In recognition of the need to avoid duplication of effort between the Parties and to ensure a consistency of approach between them, Project Manager/Policy Analyst of the OSBC (“OSBC representative”) and the Business Operations Manager of the Energy & Water Ombudsman SA (“Company representative”) agree that:

- (i) The OSBC representative and the Company representative will refer to each other matters which come to their attention and which relate to specific areas of interest and/or jurisdiction or function of the other, as agreed between them from time to time.
- (ii) Any such complaints received by the OSBC representative will be emailed to the attention of the Company representative at: contact@ewosa.com.au.
- (iii) Any such complaints received by the Company representative will be emailed to the attention of the OSBC representative at sasbc@sa.gov.au.

3.2 Advice to complainant

The OSBC representative or the Company representative will advise the relevant complainant of their options to:

- (i) take their complaint directly to the other Party’s representative; or
- (ii) with their consent, have their complaint, together with any information provided by the complainant in relation to the complaint, referred to the other Party’s representative.

3.3 Information to accompany a referred complaint

The information to accompany a referred complaint is to include:

- copies of all documentation held by the referring Party’s representative that relates to the complaint, or part of the complaint, being referred;
- advice on whether any part of the complaint being referred is also being referred to any other party for attention; and
- advice on whether the referring Party’s representative intends to continue to deal with the complaint, or part thereof.

4. Confidentiality of information provided

It is acknowledged that confidentiality is to be maintained in accordance with any statutory or other legal requirements that apply to either Party. The OSBC and Company representatives will take reasonable steps to prevent the unauthorised use or disclosure of confidential information.

5. Liaison

The OSBC and Company representatives will meet at least quarterly (or as otherwise agreed), to consider:

- issues in relation to current complaint files or investigations;
- current matters of mutual interest to the parties; and
- other matters or activities which may involve an overlap in jurisdiction or give rise to duplication of effort by the Parties.

The Parties will keep each other briefed on other areas of joint interest.

The OSBC and Company representatives will, from time to time, consider whether there is a need for joint research on issues of mutual interest within their respective mandates, or other joint activities, including the provision of information or reports to the public and, if so, undertake such research and share results, or conduct such other joint activities.

6. Review

This MoU will continue in force until such time as another MoU is agreed and signed between the parties. The OSBC and Energy & Water Ombudsman SA can initiate a review of this MoU where necessary.

In the event of any disagreement between the Parties as to the implementation of this MoU or the performance of their respective functions, powers and duties, the Parties (through their representatives) will seek to resolve the matter in accordance with the objectives of this MoU.

7. Legality

This MoU is not intended to be legally binding on the Parties or the OSBC or Company representatives.

8. Delegation

The OSBC and Company representatives can delegate their responsibilities under this MoU to another employee of their organisation, provided that notice of that delegation is given to the other Party's representative.

9. Public Availability

This MoU may be published on the OSBC and the Energy & Water Ombudsman SA websites.

Dated this 25th day of September 2017


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John Chapman
Small Business Commissioner


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Sandro Canale
Energy & Water Ombudsman SA