



MEMORANDUM OF UNDERSTANDING

THE SOUTH AUSTRALIAN STATE OMBUDSMAN

and

ENERGY AND WATER OMBUDSMAN (SA) LIMITED
("the Parties")

January 2013

MEMORANDUM OF UNDERSTANDING BETWEEN THE SOUTH AUSTRALIAN STATE OMBUDSMAN AND ENERGY AND WATER OMBUDSMAN (SA) LIMITED

1. Introduction

- 1.1. The South Australian State Ombudsman ("State Ombudsman") has the authority, under the *Ombudsman Act 1972* to investigate complaints about the administrative acts of government departments and authorities and local government councils.
- 1.2. The Energy and Water Ombudsman (SA) Limited ("Energy and Water Ombudsman SA" or "the Company") has the authority, under legislation and its constitution, to investigate and facilitate the resolution of complaints against South Australian electricity and natural gas providers, and water and sewerage providers that are members of the scheme.
- 1.3. The State Ombudsman and the Energy and Water Ombudsman SA have overlapping jurisdictions in respect to energy and water and sewerage providers who are public authorities within the meaning of the Ombudsman Act, and consumers may make complaints to either or both bodies about these providers.

2. Purpose

- 2.1 This Memorandum of Understanding ("MoU") sets out the arrangements between the State Ombudsman and the Energy and Water Ombudsman SA for sharing information, referring complaints and other operational matters.
- 2.2 The MoU acknowledges the preparedness of the State Ombudsman and the Energy and Water Ombudsman SA, in the public interest, to share with each other as far as is legal and practicable, information on relevant matters within the jurisdiction of the other.
- 2.3 The MoU does not limit any statutory powers or discretion of the parties to exchange information.

3. Roles of the Ombudsmen

- 3.1. The State Ombudsman investigates complaints about South Australian government and local government agencies, and conducts freedom of information reviews. The State Ombudsman can also receive information about State and local government activities confidentially from whistleblowers.
 - 3.1.1. The State Ombudsman is an independent officer who has comprehensive power to:
 - investigate complaints brought to him about the administrative acts of government departments and authorities, and local government councils, under the Ombudsman Act;
 - review decisions made about the supply of information in accordance with the *Freedom of Information Act 1991*, and
 - receive information confidentially from a person who wishes to inform about possible improper or illegal actions in State or local government under the *Whistleblowers Protection Act 1993*.
- 3.2. The Energy and 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.
 - 3.2.1. In summary the jurisdiction of the Energy and 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;

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- disconnection and security deposits;
- land or property access;
- referrals from the Essential Services Commission of South Australia or the Australian Energy Regulator;
- behaviour of electricity, gas and water entity staff, contractors and agents including sales and marketing; and
- other areas by agreement.

3.2.2. The functions of the Energy and Water Ombudsman 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.

4. Complaint Referral Arrangement

Advice to complainants

4.1. Where the State Ombudsman or the Energy and Water Ombudsman SA receives a complaint which is apparently better handled by the other Ombudsman, each will advise the complainant of their options to:

- take the complaint directly to the other Ombudsman; or
- with the complainant's consent, have the complaint, together with any information provided by the complainant in relation to the complaint, referred to the other Ombudsman.

Referral of complaints

4.2. In accordance with Clause 4.5, the State Ombudsman and the Energy and the Water Ombudsman SA will refer to each other matters which relate to the specific jurisdiction or areas of interest of the other.

4.3. Any such complaints received by the State Ombudsman will be emailed to the Energy and Water Ombudsman SA at: contact@ewosa.com.au.

4.4. Any such complaints received by the Energy and Water Ombudsman SA will be emailed to the State Ombudsman at ombudsman@ombudsman.sa.gov.au.

Circumstances in which a complaint may be referred

4.5. A complaint may be referred from one party to the other if it appears to the referring party that the complaint:

- is within, or partly within, the receiving party's jurisdiction;
- requires action, the nature of which the receiving party has a special interest in; or
- is best dealt with by the other party.

Information to accompany a referred complaint

4.6. Subject to the Information Sharing Arrangement set out in Part 5 below, the information to accompany a referred complaint will include:

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- copies of all documentation held by the referring party 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 intends to continue to deal with the complaint, or part thereof.
- 4.7. Documents obtained from any party in the course of a formal conciliation/mediation proceeding will not be disclosed without the consent of the party that provided the documents.
- 4.8. At or about the time a complaint is or is to be referred, the referring party must send to the complainant in writing, the following information:
- the name and contact details of the receiving party; and
 - whether the referring party intends to continue to deal with a part or all of the complaint.
- 4.9. On receipt of a referred complaint, the receiving party is to give the complainant in writing, the following information:
- confirmation of receipt of the referred complaint, or part thereof; and
 - its relevant contact details.

5. Information Sharing Arrangement

Circumstances in which information can be shared

- 5.1. Subject to Clause 5.2, each Ombudsman will disclose information to the other in the following circumstances:
- where one party requests the disclosure of information reasonably necessary to assist that party to carry out its functions relating to the matter within its jurisdiction;
 - where one party is referring a complaint to the other party pursuant to this MoU;
 - where one party becomes aware that the other party has received a complaint and the information held by the other party would assist the other party to carry out its functions; or
 - where it is reasonably necessary to share information, regularly or in appropriate circumstances, in order for one or both of the parties to carry out its functions in an efficient manner.

Confidentiality of information provided

- 5.2. It is acknowledged that confidentiality is to be maintained within the statutory framework, or any other requirements that exist for each party.

6. Liaison

- 6.1. A liaison committee of senior staff of the State Ombudsman and the Energy and Water Ombudsman SA will meet as required, to consider:
- any issues in relation to current complaint files or investigations;
 - current projects of mutual interest to the parties; and
 - other matters or activities which could involve an overlap in jurisdiction or give rise to duplication of effort by the parties.
- 6.2. Contact persons of both parties will liaise as necessary and appropriate in relation to particular files, areas of activity, or persons or organisation the subject of interest.

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6.3. Both the State Ombudsman and the Energy and Water Ombudsman SA will keep each other briefed in areas of joint interest.

7. Review

7.1. This MoU may be reviewed at the request of either party but in any event shall be reviewed no later than 24 months from the date it is first signed, and annually thereafter.

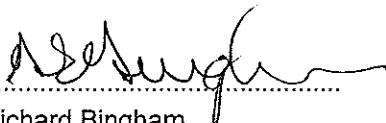
7.2. In the event of any disagreement between the parties as to the implementation of this MoU or the performance of their respective functions, powers and duties, the Ombudsmen (or their delegates) will seek to resolve the matter in accordance with the objectives of this MoU.

7.3. This MoU is not intended to be legally binding on the parties.

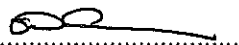
8. Public Availability

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

Dated this // day of January 2013



Richard Bingham
State Ombudsman



Sandro Canale
Energy and Water Ombudsman (SA)