



Memorandum of understanding

between the ACT Government Utilities Technical Regulation and
the Independent Competition and Regulatory Commission

April 2022

1. Background

- 1.1. This memorandum of understanding (MOU) sets out arrangements to promote effective communication, cooperation, and coordination between the ACT Government Utilities Technical Regulation (UTR) and the Independent Competition and Regulatory Commission (commission) in performing their roles and functions in relation to energy and water industries and utilities within the ACT and nationally.
- 1.2. This MOU is a public document and transparently communicates the arrangements that operate between UTR and the commission.
- 1.3. This MOU is not intended to and does not create legally binding obligations between the parties.

2 Objectives

- 2.1 UTR and the commission recognise the benefits of collaborating and cooperating with each other. The arrangements in this MOU aim to enhance the co-operative working relationship between the two agencies, in the interests of promoting effective and efficient regulation of the energy and water sectors.
- 2.2 The MOU also seeks to enhance the understanding of industry and consumer issues as well as utility technical issues in relation to the energy and water markets, and the performance by UTR and the commission of their respective roles.

3. Parties to the understanding

Utilities Technical Regulation

- 3.1 UTR is the responsibility of the Minister for Water, Energy and Emissions Reduction and the Minister for Business and Better Regulation. The Technical Regulator is established by the *Utilities (Technical Regulation) Act 2014* (UTR Act) and is embodied by the Director-General of the Environment, Planning and Sustainable Development Directorate.

The role of UTR is to ensure safe, reliable and efficient delivery of gas, electricity and water services to the ACT community. This includes all aspects of the creation, operation and maintenance of utility networks.

UTR is responsible for the administration of the UTR Act and aspects of the *Utilities Act 2000* (Utilities Act).

UTR's responsibilities include providing advice to the Minister and the commission about the operation of the Acts, the preparation and consultation of draft technical codes, monitoring and enforcement of compliance with technical codes by regulated utility services, undertaking audits of the performance and compliance of regulated utility service and owners of infrastructure and listed dams, preparation and publishing of an annual compliance report.

Independent Competition and Regulatory Commission

3.2 The commission is a Territory Authority established under the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act). The commission has responsibilities for a broad range of regulatory and utility matters in the ACT such as regulating and advising government about pricing and other matters for monopoly, near-monopoly and ministerially declared regulated industries, licensing utilities operating in the ACT and making industry codes under the Utilities Act, monitoring and reporting on utilities' performance and compliance with licence conditions and legislative obligations, and providing advice on competitive neutrality complaints and government-regulated activities.

The objectives of the commission are outlined at section 7 of the ICRC Act and section 3 of the Utilities Act and are focused on the protection of the interests of consumers in the ACT.

4. Notification and consultation

4.1 UTR and the commission recognise the importance of mutual collaboration and information sharing when their responsibilities overlap, and also recognise that decisions must be made independently. Where appropriate, UTR and the commission will endeavour to:

- a) notify each other of any activities that may be relevant to the other party and keep each other informed of the progress of those matters where they are relevant to the parties. These activities could include:
 - i) UTR's and commission's compliance and enforcement activities.
 - ii) UTR's transmission and distribution determinations and access arrangements for electricity and gas networks.
 - iii) UTR's and commission's reports on the energy and water industries.
 - iv) UTR's and commission's changes to regulatory instruments such as codes and guidelines.

- b) give each other copies of publications they have prepared that may be relevant to the other agency. It may also be appropriate to provide an advance copy of, and briefing on, the publication, prior to its general release.
 - c) where a publication (such as a report or a webpage) by one party refers to another, give that party an opportunity to comment on the reference prior to the finalisation and general release of the publication.
- 4.2 Where appropriate, the UTR and the commission will consider inviting staff from the other agency to participate in consumer and industry education and outreach activities.
- 4.3 Where appropriate, the UTR and the commission will each provide presentations to the staff of the other agency covering topics such as roles and responsibilities, to support the operation of this MOU.

5. Activity reports

- 5.1 The contact officers nominated under clause 8.1 of this MOU will meet from time to time or as otherwise agreed to discuss matters of common interest, including to:
- a) give each other updates and reports on issues that may demonstrate systemic issues or emerging trends.
 - b) inform each other about any existing or proposed activities that may be of interest to the other parties.
 - c) identify opportunities for joint activities or the sharing of information.
 - d) report on any other developments that may impact on other parties.
- 5.2 Reports may be provided in writing or at the scheduled regular meetings, as agreed between the parties.

6. Special requests and referrals

- 6.1 The contact officers may contact each other outside the scheduled regular meetings to:
- a) request advice in writing on issues that are within the responsibility of their agency.
 - b) request additional information outside of the scheduled reporting times.

When such a request is made, the party that receives the request will respond as soon as possible and not longer than 14 days after the request is made.

7. Information management

- 7.1 The parties recognise the value of sharing information. The parties also recognise that they each have obligations in relation to the protection of information and will take reasonable steps to protect any confidential information from any unauthorised use or disclosure.
- 7.2 Where appropriate, UTR and the commission will facilitate the exchange of information. Where this information is confidential:
- a) the agency providing the information will identify the relevant part of the information that is confidential and any conditions attached to its disclosure.
 - b) the receiving agency will comply with any confidentiality conditions and will only use or disclose that information to the extent permitted by law, for example, an FOI request or where required by a court.
 - c) the receiving agency will use its best endeavours to inform the agency that provided the information prior to disclosing confidential information to third parties under clause 7.2(b).
- 7.3 The parties acknowledge that information shared between them under this MOU may have to be shared with other entities when required by legislation or by order of a court.

8. Management of the MOU

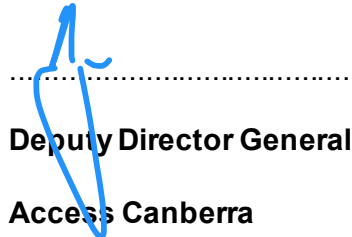
- 8.1 UTR and the commission will each nominate a contact officer to be specified in item 1 of the schedule. The contact officers will be responsible for general liaison under this MOU and for co-operation arrangements between the parties.
- 8.2 In the event of any disagreement between the parties as to the implementation of this MOU or the performance of their respective functions, powers and duties, the Executive Branch Manager responsible for UTR and CEO of the commission (or their delegates) will seek to resolve the matter in accordance with the objectives of this MOU.
- 8.3 This MOU will continue in force until such time as another MOU is agreed and signed between the parties. UTR and the commission can initiate a review of this MOU where necessary.

Publication

8.4 This MOU may be published by UTR and the commission on their respective web sites.



Chief Executive Officer
Independent Competition and Regulatory
Commission



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Deputy Director General
Access Canberra

Date: 12 April 2022

Date: *6 May 2022*

SCHEDULE

Item 1 Contact officers

	Contact officer nominated under clause 8.1
ICRC	Senior Director Legal & Compliance
UTR	Senior Director, Utilities Technical Regulation